

## Goochland County Stormwater Management and Erosion and Sediment Control Amendment

1. Chapter 5 (Stormwater Management and Erosion and Sediment Control) is repealed in its entirety and replaced with Chapter 5 (Erosion and Stormwater Management Program) as follows:

### ~~Chapter 5 STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL~~

#### ~~ARTICLE I. STORMWATER MANAGEMENT~~

##### ~~Sec. 5-1. Purpose and authority.~~

- ~~(a) The purpose of this article is to ensure the general health, safety, and welfare of Goochland County residents, and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from land-disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures to administer and enforce stormwater requirements related to water quality and quantity.~~
- ~~(b) This article is adopted pursuant to the Stormwater Management Act (Virginia Code §§ 62.1-44.15:24 et seq.) as part of an initiative to integrate the county stormwater management requirements with the county's erosion and sediment control (article II of this chapter), and floodplain management (chapter 15, article 28, "Floodplain Districts and Dam Break Inundation Zones") requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the county and those responsible for compliance with these programs.~~

##### ~~Sec. 5-2. Definitions.~~

~~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 article have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.~~

~~*Administrator* means the VSMP authority including the director of community development or designee responsible for administering the VSMP on behalf of Goochland County.~~

~~*Agreement in lieu of a stormwater management plan* means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be~~

~~implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.~~

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

~~*Best management practice (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.~~

~~*Clean Water Act (CWA)* means the Federal Clean Water Act (33 U.S.C § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.~~

~~*Common plan of development or sale* means a contiguous area where separate and distinct construction activities may be taking place at different times on difference schedules.~~

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

~~*County* means Goochland County.~~

~~*Department* means the Virginia Department of Environmental Quality.~~

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

~~*General permit* means the state permit titled "General VPDES Permit for Discharges of Stormwater from Construction Activities" found in Chapter 880 (9VAC25-880-1 et seq.) of the regulations authorizing a category of discharges under the CWA and the VSMP Act within a geographical area of the Commonwealth of Virginia.~~

~~*Land disturbance or land-disturbing activity* means A manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in section 5-3 of this article.~~

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

~~*Minor modification* means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency~~

~~requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.~~

~~*Off-site compliance options* means nutrient credits or other options as provided for in Code of Virginia, § 62.1-44.15:35.~~

~~*Operator* means the owner or operator of any facility or activity subject to the Clean Water 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 (2) 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 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).~~

~~*Permittee* means the person to whom the stormwater permit is issued.~~

~~*Person* means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body, including federal, state, or local entity as applicable, any interstate body or any other legal entity.~~

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

~~*Site* means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity.~~

~~*State* means the Commonwealth of Virginia.~~

~~*State board* means the Virginia State Water Control Board.~~

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

~~*State water control law* means Chapter 3.1 (§§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.~~

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

~~*Stormwater* means precipitation that is discharged across the land surface or through conveyances to one (1) or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.~~

~~*Stormwater management plan* means a document(s) containing material describing methods for complying with the requirements of subsection 5-5(a)(2) of this article.~~

~~*Stormwater permit* means an approval to conduct a land-disturbing activity issued by the administrator for the initiation of a land-disturbing activity, in accordance with this article, and which may only be issued after evidence of general permit coverage has been provided by the department.~~

~~*Stormwater pollution prevention plan (SWPPP)* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site, and otherwise meets the requirements of this article. In addition, the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.~~

~~*Subdivision* means the same as defined in the subdivision ordinance.~~

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

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

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

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

~~*Virginia Stormwater Management Program authority (VSMP authority)* means an authority approved by the state board after September 13, 2011, to operate a Virginia Stormwater Management Program.~~

**Sec. 5-3. Stormwater permit requirement; exemptions.**

- (a) ~~Except as provided herein, no person may engage in any land-disturbing activity until a stormwater permit has been issued by the administrator in accordance with the provisions of this article.~~
- (b) ~~Notwithstanding any other provisions of this article, 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 Code of Virginia, Title 45.1.~~
  - (2) ~~Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;~~
  - (3) ~~Single-family residences separately built and disturbing less than one (1) acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;~~
  - (4) ~~Land-disturbing activities that disturb less than one (1) acre of land area except for activities that are part of a larger common plan of development or sale that is one (1) acre or greater of disturbance;~~
  - (5) ~~Discharges to a sanitary sewer or a combined sewer system;~~
  - (6) ~~Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;~~
  - (7) ~~Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection; and~~
  - (8) ~~Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the administrator shall be advised of the disturbance within seven (7) days of~~

~~commencing the land-disturbing activity and compliance with the administrative requirements of subsection (a) is required within thirty (30) days of commencing the land-disturbing activity.~~

**~~Sec. 5-4. Stormwater management program established; submission and approval of plans; prohibitions.~~**

- ~~(a) Pursuant to Code of Virginia, § 62.1-44.15:27, the county hereby establishes a Virginia Stormwater Management Program for Land-Disturbing Activities and adopts the applicable regulations that specify standards and specifications for VSMPs promulgated by the state board for the purposes set out in section 5-1 of this article. The county hereby designates the director of community development or designee as the administrator of the VSMP on behalf of the county.~~
- ~~(b) No stormwater permit shall be issued by the administrator until the following items have been submitted to and approved by the administrator as prescribed herein:
  - ~~(1) A permit application that includes a general permit registration statement, if such a statement is required. Registration statements are not required for single-family detached residential structures outside or within a larger plan of development or sale;~~
  - ~~(2) An erosion and sediment control plan approved in accordance with the Goochland County Erosion and Sediment Control Ordinance, article II of this chapter; and~~
  - ~~(3) A stormwater management plan that meets the requirements of subsection 5-5(a)(2) of this article.~~~~
- ~~(c) No stormwater permit shall be issued until evidence of general permit coverage is obtained.~~
- ~~(d) No stormwater permit shall be issued until the fees required to be paid pursuant to subsection 5-13(c) are received.~~
- ~~(e) No stormwater permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.~~
- ~~(f) No grading, building or other local permit shall be issued for a property unless a stormwater permit has been issued by the administrator.~~

**~~Sec. 5-5. Stormwater pollution prevention plan.~~**

- ~~(a) The stormwater pollution prevention plan (SWPPP) shall include 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. The content of the SWPPP is specified by Section 9VAC25-870-54 and must also comply with the~~

~~requirements and general information set forth in Section 9VAC25-880-70 Part II [stormwater pollution prevention plan] of the general permit, and shall generally include information set forth as follows:~~

- ~~(1) *Erosion and sediment control plan.* The erosion and sediment control plan shall contain that information set forth in article II, section 5-32.~~
- ~~(2) *Stormwater management plan.* As required in section 5-4, the stormwater management plan must apply the stormwater management technical criteria set forth in section 5-7 to the entire land-disturbing activity. Individual lots or parcels in new residential, commercial, or industrial developments including those developed under subsequent owners shall not be considered to be separate land-disturbing activities. The stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff.~~
  - ~~a. The stormwater management plan shall include the following information:~~
    - ~~1. Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters and the 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;~~
    - ~~3. A narrative that includes a description of current site conditions and final site conditions;~~
    - ~~4. A general description of the proposed stormwater management facilities, including: facility type, location (using geographic coordinates), acres treated, surface waters into which the facility will discharge, and facilities operation and maintenance plan after construction is complete;~~
    - ~~5. Hydrologic and hydraulic computations, including runoff characteristics;~~
    - ~~6. Documentation and calculations verifying compliance with the water quality and quantity requirements of section 5-7 of this article.~~
    - ~~7. A map or maps of the site that depict site topography, including:
      - ~~(i) All contributing drainage areas;~~
      - ~~(ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;~~
      - ~~(iii) Soil types, forest cover, and other vegetative areas;~~~~

- ~~(iv) Current land use including existing structures, roads, and locations of known utilities and easements;~~
- ~~(v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;~~
- ~~(vi) Limits of clearing and grading, and the proposed drainage patterns on the site;~~
- ~~(vii) Proposed buildings, roads, parking areas, utilities, stormwater management facilities; and~~
- ~~(viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.~~

8. ~~Operations and maintenance plan.~~

~~(3) *Pollution prevention plan.* As required by 9VAC25-870-56, a pollution prevention plan shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants.~~

- ~~a. 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.~~
- (b) ~~The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.~~
  - (c) ~~The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with section II of the general permit, either electronically or hard copy.~~
  - (d) ~~If an operator intends to meet the water quality or quantity requirements set forth in section 5-7 of this article through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by Code of Virginia, § 62.1-44.15:35.~~
  - (e) ~~Elements of the stormwater management plans that include activities regulated under Code of Virginia, Chapter 4 of Title 54.1 shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Code of Virginia, Article 1 of Chapter 4 of Title 54.1 (§§ 54.1-400 et seq.).~~
  - (f) ~~An as-built drawing for permanent stormwater management facilities shall be submitted to the administrator in an electronic format suitable for incorporation into the county's geographic information system (i.e., AutoCAD file, State Plane VA South NAD83, and a minimum of three (3) GPS coordinates). The as-built 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. 5-6. Review of stormwater management plan.~~**

- (a) ~~The administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:~~
  - (1) ~~The administrator shall determine the completeness of a plan in accordance with section 5-5 of this article, and shall notify the applicant, in writing, of such determination, within fifteen (15) calendar days of receipt. If the plan is deemed~~

~~to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.~~

- ~~(2) The administrator shall have an additional sixty (60) calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subsection (1), then plan shall be deemed complete and the administrator shall have sixty (60) calendar days from the date of submission to review the plan.~~
  - ~~(3) The administrator shall review any plan that has been previously disapproved, within forty-five (45) calendar days of the date of resubmission.~~
  - ~~(4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this article.~~
  - ~~(5) If a plan meeting all requirements of this article is submitted and no action is taken within the time provided above in subsection (2) for review, the plan shall be deemed approved.~~
- ~~(b) Approved stormwater management plans may be modified as follows:~~
- ~~(1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the administrator. The administrator shall have sixty (60) calendar days to respond in writing either approving or disapproving such request.~~
  - ~~(2) The administrator may require that an approved stormwater management plan be amended, within a time prescribed by the administrator, to address any deficiencies noted during inspection.~~
- ~~(c) The administrator shall require the submission of as-built drawings for permanent stormwater management facilities.~~

#### **Sec. 5-7. Technical criteria for regulated land-disturbing activities.**

- ~~(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the county hereby adopts and incorporates by reference the technical criteria for regulated land-disturbing activities set forth in Part II B of the regulations, as amended, expressly to include 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], which shall apply to all land-disturbing activities~~

~~regulated pursuant to this article, except as expressly set forth in subsection (b) of this section.~~

- ~~(b) Any land-disturbing activity shall be considered grandfathered and shall be subject to the Part II C technical criteria (9VAC25-870-93 through 9VAC25-870-99) adopted and incorporated by reference; provided:
  - ~~(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat or a preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the administrator prior to July 1, 2012, (ii) provided a layout as defined in section 5-2, (iii) will comply with Part II C technical criteria of the VSMP regulation, and (iv) has not been modified in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge or the volume or rate of runoff.~~
  - ~~(2) A state permit has not been issued prior to July 1, 2014; and~~
  - ~~(3) Land disturbance did not commence prior to July 1, 2014.~~~~
- ~~(c) Local, state, and federal projects shall be considered grandfathered by the administrator and shall be subject to the Part II C technical criteria provided:
  - ~~(1) There has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;~~
  - ~~(2) A state permit has not been issued prior to July 1, 2014; and~~
  - ~~(3) Land disturbance did not commence prior to July 1, 2014.~~~~
- ~~(d) Land-disturbing activities grandfathered under subsections (b) and (c) shall remain subject to Part II C technical criteria for one (1) additional permit cycle and must complete construction by June 30, 2019. After that time, portions of the project not under construction shall become subject to any new technical criteria adopted by the state board.~~
- ~~(e) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements Part II C of the regulations.~~
- ~~(f) The administrator may grant exceptions to the technical requirements of Part II B or Part II C of the regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the regulations, and this article are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) the exception request is 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 article.~~

- ~~(1) Exceptions to the requirement that the land-disturbing activity obtain required stormwater 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 granted unless off-site options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.~~
- ~~(g) Nothing in this section shall preclude an operator from constructing to a more stringent standard at their discretion.~~

**~~Sec. 5-8. Long-term maintenance of permanent stormwater management facilities.~~**

- ~~(a) The administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an agreement, the format of which will be provided by the county. The agreement shall be recorded in the local land records prior to stormwater permit approval and, at a minimum:~~
- ~~(1) Be submitted to the administrator for review and approval prior to the approval of the stormwater management plan;~~
  - ~~(2) Shall run with the land;~~
  - ~~(3) Govern the development of the parcel, even if ownership changes;~~
  - ~~(4) Provide for all necessary county access to the property for purposes of maintenance and regulatory inspections;~~
  - ~~(5) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the administrator; and~~
  - ~~(6) Be enforceable by all appropriate governmental parties.~~

**~~Sec. 5-9. Monitoring and inspections.~~**

- ~~(a) The administrator shall inspect the land-disturbing activity during construction for:~~
- ~~(1) Compliance with the approved erosion and sediment control plan;~~
  - ~~(2) Compliance with the approved stormwater management plan;~~
  - ~~(3) Development, updating, and implementation of a pollution prevention plan; and~~
  - ~~(4) Development and implementation of any additional control measures necessary to address a TMDL.~~
- ~~(b) The administrator at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining~~

~~information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.~~

- ~~(c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.~~
- ~~(d) Pursuant to Code of Virginia, § 62.1-44.15:40, the administrator may require every stormwater permit applicant or permittee, or any such person subject to requirements under this article, 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 article.~~
- ~~(e) Post-construction inspections of stormwater management facilities required by the provisions of this article shall be conducted in accordance with the county's adopted and state board approved inspection program, and shall occur, at minimum, at least once every five (5) years.~~

#### **~~Sec. 5-10. Enforcement.~~**

- ~~(a) If the administrator determines that there is a failure to comply with the stormwater permit conditions or determines there is an unauthorized discharge, a notice to comply shall be served upon the permittee or person responsible for carrying out the permit conditions by verbal warnings and inspection reports. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.~~
  - ~~(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection (b) herein or the permit may be revoked by the administrator.~~
  - ~~(2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.~~

~~The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending~~

~~application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Goochland County. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the administrator.~~

~~If the administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth or otherwise substantially impacting water quality, the administrator may issue, without advance notice or hearing, an emergency order directing such person to immediately cease all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with subsection 5-10(c).~~

- ~~(b) 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 Goochland County Circuit Court to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.~~
- ~~(c) Any person who violates any provision of this article or who fails, neglects, or refuses to comply with any order of the administrator, shall be subject to a civil penalty not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.
  - ~~(1) In imposing a civil penalty pursuant to this subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.~~
  - ~~(2) Any civil penalties assessed by a court as a result of a summons issued by the county shall be paid to the county's treasury 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.~~
  - ~~(3) The administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.~~~~
- ~~(d) Notwithstanding any other civil or equitable remedy provided by this section or by law, any person who willfully or negligently violates any provision of this article, any order of the administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than twelve~~

~~(12) months or a fine of not less than two thousand five hundred dollars (\$2,500.00) nor more than thirty-two thousand five hundred dollars (\$32,500.00), or both.~~

**Sec. 5-11. Administrative hearing; conduct of hearings.**

- ~~(a) Any permit applicant or permittee, or person subject to state permit requirements under this article who is aggrieved by any action or inaction of the county, the State Department of Environmental Quality (the "department") or the State Water Control Board (the "state board") may demand in writing a formal hearing by the county or the board, whichever is alleged to have caused such grievance, provided that a petition requesting such hearing is filed with the board or the county administrator, as appropriate, within thirty (30) days after notice of the action that caused the grievance.~~
- ~~(b) Any hearing requested of the board or a designate of the board shall be conducted in a manner consistent with the provisions of Code of Virginia, § 62.1-44.26, as amended and other applicable state law. Any hearing requested of the county shall be conducted pursuant to written policies and procedures adopted by the board of supervisors.~~

**Sec. 5-12. Judicial review.**

- ~~(a) Any permittee or party aggrieved by a state permit or enforcement decision of the department or the board under this article, or any other person who has standing pursuant to Code of Virginia, § 62.1-44.15:46, as amended, may seek judicial review of such permit or enforcement decision in accordance with the provisions of the Administrative Process Act.~~
- ~~(b) Any permittee or party aggrieved by a state permit or enforcement decision of the county or any other person who has standing pursuant to Code of Virginia, § 62.1-44.15:46, as amended, may appeal such decision by filing a petition with the Goochland County Circuit Court, provided that said petition is filed within thirty (30) days of the issuance of such permit or enforcement decision.~~

**Sec. 5-13. Fees.**

- ~~(a) *Applicability.* The following fees apply to:
  - ~~(1) All persons seeking coverage under the general permit;~~
  - ~~(2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit;~~
  - ~~(3) Persons whose coverage under the general permit has been revoked shall apply to the department for an individual permit for discharges of stormwater from construction activities; and~~~~

- (4) ~~Permit and permit coverage maintenance fees may apply to each general permit holder. The fees can be found in the county's fee schedule adopted as an appendix [C] to this Code.~~
- (b) ~~Exemptions. No general permit application fees will be assessed to:~~
- (1) ~~Permittees who request minor modifications to general permits as defined in subsection 5-6(b) of this article. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the administrator shall not be exempt pursuant to this section; or~~
  - (2) ~~Permittees whose general permits are modified or amended at the initiative of the department, excluding errors in the registration statement identified by the administrator or errors related to the acreage of the site.~~
- (c) ~~Types of fees. Fees to cover costs associated with implementation of a VSMP related to land-disturbing activities, issuance of general permit coverage, and stormwater permits shall be imposed in accordance with the county's fee schedule adopted as an appendix [C] to this Code.~~
- (1) ~~General stormwater management permit fees. General permit fees are paid to both the county and the department. When a site(s) has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to county fees in accordance with the disturbed acreage. County fees can be found in the county's fee schedule adopted as an appendix [C] to this Code and department fees are provided for in the county review and approval process policy. However, if the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department. No more than fifty (50) percent of the base fee set out in this part shall be due at the time that a stormwater management plan is submitted for review in accordance with section 5-6. The remaining base fee balance shall be due prior to permit issuance.~~
  - (2) ~~Modification or transfer of permit fees. If the general permit modifications result in changes to stormwater management plans that require additional review by the county, such reviews shall be subject to the fees found in the county's fee schedule adopted as an appendix [C] to this Code. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage found in the county's fee schedule adopted as an appendix [C] to this Code. Modification and transfer fees are paid to the county only. No permit shall be modified or transferred without payment of the required fee.~~

- (3) ~~Permit maintenance fees. Annual permit maintenance fees shall be imposed, including fees imposed on expired permits that have been administratively continued. Fees can be found in the county's fee schedule adopted as an appendix [C] to this Code. With respect to the general permit, these fees shall apply until the permit coverage is terminated. Maintenance fees shall be paid annually to the county, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a notice of termination is effective.~~
- (4) ~~Late payment fees. Late payment fees shall be assessed for subsections 5-13(c)(2) and 5-13(c)(3) of this section. Interest may be charged for late payments at the underpayment rate set forth in Virginia Code § 58.1-15 and is calculated on a monthly basis at the applicable periodic rate. A ten-percent late payment fee shall be charged to any delinquent (over ninety (90) days past due) account.~~

**~~Secs. 5-14-5-28. Reserved.~~**

**~~ARTICLE II. EROSION AND SEDIMENT CONTROL~~**

**~~Sec. 5-29. Title, purpose, and authority.~~**

~~This article shall be known as the "Erosion and Sediment Control Ordinance of the County of Goochland." The purpose of this article is to conserve the land, water, air and other natural resources of the county by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced.~~

~~This article is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4, (§ 62.1-44.15:51 et seq.), as may be amended from time to time, known as the Erosion and Sediment Control Law.~~

**~~Sec. 5-30. Definitions.~~**

~~As used in the article, unless the context requires a different meaning:~~

~~*Adequate stabilization* means permanent vegetation, eighty (80) percent to ninety (90) percent cover at least three (3) inches tall with no bare spots.~~

~~*Agreement in lieu of a plan* means a contract between the county and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the county in lieu of a formal erosion and sediment control plan.~~

~~*Applicant* means any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land-disturbing activities to commence.~~

~~*Board* means the state water control board.~~

~~*Certified inspector for ESC* means an employee or agent of the county who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one (1) year after enrollment.~~

~~*Certified plan reviewer for ESC* means an employee or agent of the county who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia or is a professional soil scientist as defined in Chapter 22 (Section 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia, as may be amended from time to time.~~

~~*Certified program administrator for ESC* means an employee or agent of the county who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one (1) year after enrollment.~~

~~*Clearing* means any activity which removes the vegetative ground cover including, but not limited to, root mat removal or top soil removal.~~

~~*Conservation plan, erosion and sediment control plan or plan* means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory, and management information with needed interpretations and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to assure that the entire unit or units of land will be so treated to achieve the conservation objectives.~~

~~*County* means the County of Goochland.~~

~~*Department* means the Virginia Department of Environmental Quality.~~

~~*Development* means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units.~~

~~*Director* means the director of the department of environmental quality.~~

~~*District or soil and water conservation district* refers to the Monacan Soil and Water Conservation District.~~

~~*Erosion impact area* means an area of land not associated with current land-disturbing activity, but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of ten thousand (10,000) square feet or less used for residential purposes.~~

~~Excavating means any digging, scooping or other methods of removing earth materials.~~

~~Filling means any depositing or stockpiling of earth materials.~~

~~Grading means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.~~

~~Land-disturbing activity means any land change which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:~~

- ~~(1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;~~
- ~~(2) Individual service connections;~~
- ~~(3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;~~
- ~~(4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;~~
- ~~(5) Surface or deep mining;~~
- ~~(6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;~~
- ~~(7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations, including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of the Code of Virginia, 1950, as may be amended from time to time, 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 (Section 10.1-1100 et seq.) of the Code of Virginia, 1950, as may be amended from time to time, or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Code of Virginia, 1950, as may be amended from time to time.~~
- ~~(8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;~~

- ~~(9) Disturbed land areas of less than ten thousand (10,000) square feet in size, except in such as environmentally sensitive areas such as flood plains and wetlands, steep slopes (fifteen (15) degrees or more) and areas within fifty (50) feet of the James River, except in cases in which the plan-approving authority has required an agreement in lieu of a plan under section 5-32 hereto, in which the exemption shall not apply;~~
- ~~(10) Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;~~
- ~~(11) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.~~

~~*Land-disturbing permit* means a permit issued by the county for the clearing, filling, excavation, grading, transporting of land or for any combination thereof or for any purpose set forth herein.~~

~~*Local erosion and sediment control program or local control program* means an outline of the various methods employed by the county to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program and may include such items as applicable local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.~~

~~*Natural channel design concepts* means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.~~

~~*Owner* means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.~~

~~*Peak flow rate* means the maximum instantaneous flow from a given storm condition at a particular location.~~

~~*Permittee* means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.~~

~~*Person* means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.~~

~~*Plan-approving authority* means the director of community development or designee responsible for determining the adequacy of conservation plans submitted for land-disturbing activities on a unit or units of lands and for approving such plans.~~

~~Program authority means the county which has adopted a soil erosion and sediment control program approved by the board.~~

~~*Responsible land disturber* means an individual from the project or development team, who will be in charge of and responsible for carrying [out] a land-disturbing activity covered by an approved plan or agreement in lieu of plan, who:~~

- ~~(1) Holds a responsible land disturber certificate of competence;~~
- ~~(2) Holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection, or plan review;~~
- ~~(3) Holds a current contractor certificate of competence for erosion and sediment control; or~~
- ~~(4) Is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.~~

~~*Runoff volume* means the volume of water that runs off the land development project from a prescribed storm event.~~

~~*Single-family residence* means a noncommercial dwelling that is occupied exclusively by one (1) family.~~

~~*State erosion and sediment control program or state program* means the program administered by the state water control board pursuant to the state code including regulations designed to minimize erosion and sedimentation.~~

~~*State waters* means all waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdictions.~~

~~*Transporting* means any moving of earth materials from one (1) place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.~~

~~*Water quality volume* means the volume equal to the first one-half-inch of runoff multiplied by the impervious surface of the land development project.~~

### **Sec. 5-31. Local erosion and sediment control program.**

- ~~(a) Pursuant to Code of Virginia, 1950, § 62.1-44.15:54 as may be amended from time to time, the county hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the Virginia State Water Control Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable~~

~~degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications for erosion and sediment control are included in but not limited to the "Virginia Erosion and Sediment Control Regulations" and the Virginia Erosion and Sediment Control Handbook, as amended from time to time.~~

- ~~(b) Before adopting or revising regulations, the county shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the county is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the county proposes or revises regulations that are more stringent than the state program.~~
- ~~(c) In accordance with the Code of Virginia, § 62.1-44.15:52, stream restoration and relocation projects that incorporate natural channel design concepts are not manmade channels and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.~~
- ~~(d) In accordance with the Code of Virginia, § 62.1-44.15:52, any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or manmade channels shall satisfy the flow rate capacity and velocity requirements for natural or manmade channels if the practices are designed to:
  - ~~(1) Detain the water quality volume and to release it over forty-eight (48) hours;~~
  - ~~(2) Detain and release over a twenty-four-hour period the expected rainfall resulting from the one-year, twenty-four-hour storm; and~~
  - ~~(3) Reduce the allowable peak flow rate resulting from the one and one-half-year, two-year, and ten-year, twenty-four-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or manmade channels.~~~~
- ~~(e) Pursuant to the Code of Virginia, 1950, § 62.1-44.15:53, as may be amended from time to time, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The erosion control program of the county shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person.~~
- ~~(f) The county hereby designates the director of community development or designee as the plan-approving authority.~~

- (g) ~~The program and regulations provided for in this article shall be made available for public inspection to the office of the director of community development.~~

**Sec. 5-32. Regulated land-disturbing activities; submission and approval of plans; contents of plans.**

- (a) ~~Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the Office of the Director of Community Development for the County of Goochland an erosion and sediment control plan for the land-disturbing activity and such plan has been approved by the plan-approving authority. Where land-disturbing activities involve lands under the jurisdiction of more than one (1) local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the board for review and approval rather than to each jurisdiction concerned.~~
- (b) ~~Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu of a plan" may be substituted for an erosion and sediment control plan if executed by the plan-approving authority. For land-disturbing activities affecting less than ten thousand (10,000) square feet that would otherwise be exempted from this article under paragraph 9 of the definition of "land-disturbing activity" in section 5-30 hereof, an agreement in lieu of a plan may be required at the discretion of the plan-approving authority if deemed necessary to fulfill the purposes of the article. In this case, the agreement shall control and be binding on the owner, as if it were an approved erosion and sediment control plan, and shall be enforceable under this article as would such a plan.~~
- (c) ~~The standards contained within the "Virginia Erosion and Sediment Control Regulations", and the Virginia Erosion and Sediment Control Handbook are to be used by the applicant when making a submittal under the provisions of this article and in the preparation of an erosion and sediment control plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.~~
- (d) ~~The plan-approving authority shall, within forty-five (45) days, approve any such plan, if it is determined that the plan meets the requirements of the local control program, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide to the office of the director of community development the name of an individual holding a certificate of competence as provided by the Code of Virginia, 1950, § 62.1-44.15:52, as may be amended from the time to time, who will be in charge of and responsible for carrying out the land-disturbing activity. However, the plan-approving authority may waive the right certificate of competence requirement for an agreement in lieu of plan for~~

~~construction of a single-family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by the Code of Virginia, 1950, § 62.1-44.15:52. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities shall be a violation of this article, may result in revocation of the approval of the plan, and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.~~

- ~~(e) The plan shall be acted upon within forty-five (45) days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.~~

~~When the plan is determined to be inadequate, the plan-approving authority, shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within forty-five (45) days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.~~

- ~~(f) An approved plan may be changed by the plan-approving authority when:
  - ~~(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or~~
  - ~~(2) The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this article are agreed to by the plan-approving authority and the person responsible for carrying out the plans.~~~~
- ~~(g) In order to prevent further erosion, the county may require approval of a conservation plan for any land identified in the local program as an erosion impact area.~~
- ~~(h) When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.~~
- ~~(i) In accordance with the procedure set forth by the Code of Virginia, § 62.1-44.15:55(E) any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the department of environmental quality, the marine resources commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the board for review and approval consistent with guidelines established by the board.~~

~~(j) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comments. The specifications shall apply to:~~

- ~~(1) Construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and~~
- ~~(2) Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.~~

~~Individual approval of separate projects within subdivisions (1) and (2) of this subsection is not necessary when approved specifications are followed. Projects not included in subdivisions (1) and (2) of this subsection shall comply with the requirements of the county erosion and sediment control program.~~

~~(k) State agency projects are exempt from the provisions of this article except as provided for in the Code of Virginia, § 62.1-44.15:56, as may be amended from time to time.~~

~~(l) Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:~~

- ~~(1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances that are allowed by the plan-approving authority shall be documented in the plan.~~
- ~~(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.~~

### **Sec. 5-33. Permits; fees; bonding; etc.**

~~(a) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.~~

~~(b) No person may engage in any land-disturbing activity until he has acquired a land-disturbing permit, unless the proposed land-disturbing activity is specifically exempt from the provisions of this article, and has paid the fees and posted the required bond.~~

- ~~(c) Fees: At the time an erosion and sediment control plan is filed, the applicant shall pay the land disturbance permit fee as established in the fee schedule in the appendix [C] to this Code.~~
- ~~(d) No land-disturbing permit shall be issued until the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed.~~
- ~~(e) Bond: All applicants for permits shall provide to the county a performance bond, cash escrow, or an irrevocable letter of credit acceptable to the director of community development or designee, to ensure that measures could be taken by the county at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him as a result of his land-disturbing activity.~~

~~The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five (25) percent of the cost of the conservation action. Should it be necessary for the county to take such conservation action, the county may collect from the applicant any costs in excess of the amount of the surety held.~~

~~Within sixty (60) days of adequate stabilization, as determined by the director of community development or designee in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section.~~

- ~~(f) These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.~~

#### **Sec. 5-34. Monitoring, reports, and inspections.**

- ~~(a) The county may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.~~
- ~~(b) The plan-approving authority shall periodically inspect the land-disturbing activity in accordance with Section 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.~~

~~If the plan-approving authority determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.~~

~~The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this article and shall be subject to the penalties provided by this article.~~

~~(c) Upon determination of a violation of this article, the plan-approving authority may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.~~

~~If land-disturbing activities have commenced without an approved plan, the plan-approving authority may, in conjunction with or subsequent to a notice to comply as specified in this article, issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.~~

~~Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this article. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.~~

~~The order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven (7) days from the date of service pending application by the enforcing authority or permit holder for appropriate relief to the Circuit Court of Goochland County.~~

~~If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of the order, the plan-approving authority may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the tax records of the county.~~

~~The owner may appeal the issuance of an order to the circuit court of the county.~~

~~Any person violating or failing, neglecting or refusing to obey an order issued by the director of community development or designee may be compelled in a proceeding instituted in the circuit court of the county to obey same and to comply therewith by~~

~~injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.~~

~~Nothing in this section shall prevent the plan-approving authority from taking any other action authorized by this article.~~

**~~Sec. 5-35. Penalties, injunctions, and other legal actions.~~**

- ~~(a) Violators of this article shall be guilty of a Class 1 misdemeanor.~~
- ~~(b) Any person who violates any provision of this article shall, upon a finding of the district court of the county, be assessed a civil penalty. The civil penalty for any one (1) violation shall be one hundred dollars (\$100.00), except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be one thousand dollars (\$1,000.00). Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of three thousand dollars (\$3,000.00), except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of ten thousand dollars (\$10,000.00).~~
- ~~(c) The director of community development, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the circuit court of the county to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist.~~

~~However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.~~

- ~~(d) In addition to any criminal penalties provided under this article, any person who violates any provision of this article may be liable to the county in a civil action for damages.~~
- ~~(e) Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, to the discretion of the court, to a civil penalty not to exceed two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the county.~~

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

- ~~(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this article, the county may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in subsection (e) of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (e).~~
- ~~(g) The county attorney or commonwealth's attorney, as appropriate, shall, upon request of the county or the permit issuing authority, may take legal action to enforce the provisions of this article.~~
- ~~(h) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.~~

#### **Sec. 5-36. Appeals and judicial review.**

- ~~(a) Any applicant under the provision of this article who is aggrieved by any action of the county or its agent in disapproving plans submitted pursuant to this article shall have the right to apply for and receive a review of such action by the board of supervisors provided an appeal is filed within thirty (30) days from the date of the action. Any applicant who seeks an appeal hearing before the board of supervisors shall be heard at the next regularly scheduled board of supervisors' public hearing provided that the board of supervisors and other involved parties have at least thirty (30) days' prior notice. In reviewing the agent's action, the board of supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the board of supervisors may affirm, reverse or modify the action. The board of supervisor's decision shall be final, subject only to review by the circuit court of the county.~~
- ~~(b) Final decisions of the county under this article shall be subject to review by the county circuit court, provided an appeal is filed within thirty (30) days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.~~

## Chapter 5 - Erosion and Stormwater Management Program

### Sec. 5-1. Title, purpose, and authority.

- A. This ordinance is authorized by Virginia Code § 62.1-44.15:27 and shall be known as Goochland County's Erosion and Stormwater Management Ordinance.
- B. The purpose of this ordinance is to ensure the general health, safety, and welfare of Goochland citizens, to protect the quality and quantity of state waters from the potential harm of unmanaged stormwater and soil erosion, including protection from a land-disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- C. This ordinance is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities for land-disturbing activities into a more convenient and efficient manner for both the county and those responsible for compliance with this ordinance and the county's floodplain management ordinance (chapter 15, article 28, "Floodplain Districts and Dam Break Inundation Zones").

#### Sec. 5-2. Definitions.

In addition to the definitions set forth in 9VAC25-875-20 of the Virginia Erosion and Stormwater Management Regulations, which are expressly adopted and incorporated herein by reference, the following words and terms used in this ordinance have the following meanings, unless the context clearly indicates otherwise. Where definitions differ, those incorporated herein shall have precedence.

*Adequate channel* means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

*Adequate stabilization* means permanent vegetation, eighty (80) percent to ninety (90) percent cover at least 3 inches tall with no bare spots.

*Administrator* means Goochland County's director of community development or designee responsible for administering the VESMP on behalf of the County.

Agreement in lieu of a plan means a contract between the County and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the VESMA and this ordinance for the construction of a single-family detached residential structure; such contract may be executed by the County in lieu of a soil erosion control and stormwater management plan.

Applicant means any person submitting a soil erosion control and stormwater management plan to the County for approval in order to obtain authorization to commence a land-disturbing activity.

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

A. Nonproprietary best management practice means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are in the public domain and are not protected by trademark or patent or copyright.

B. Proprietary best management practice means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are privately owned and controlled and may be protected by trademark or patent or copyright.

Board means the State Water Control Board.

Causeway means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

Certification means the designation issued by the department, on behalf of the Commonwealth, to individuals who have completed department-approved training programs and met any additional eligibility requirements or in other ways

demonstrated adequate knowledge and experience in accordance with the eligibility requirements of 9VAC25-875-410 related to the specified classifications (9VAC25-875-400) within the separate subject areas of ESC or SWM or both.

*Certified inspector* means an employee or agent of the county who (i) holds a certification from the department in the area of project inspection or (ii) is enrolled in the department's training program for project inspection and successfully completes such program within one year after enrollment.

*Certified plan reviewer* means an employee or agent of the county who (i) holds a certification from the department in the area of plan review, (ii) is enrolled in the department's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Virginia Code § 54.1-400 et seq, or professional soil scientist as defined in Virginia Code § 54.1-2200.

*Certified program administrator* means an employee or agent of the county who holds a certification from the department in the classification of program administrator or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one year after enrollment.

*Channel* means a natural stream or manmade waterway.

*Clean Water Act (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.

*Clearing* means any activity which removes the vegetative ground cover including root mat removal or topsoil removal.

*Cofferdam* means a watertight temporary structure in a river, lake, etc., for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, utilities, etc., may be constructed.

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

Comprehensive stormwater management plan means a plan, which may be integrated with other land use plans or regulations, that 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 BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

County means Goochland County.

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

Dam means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock, or other debris.

Denuded means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

Department means the Virginia Department of Environmental Quality (DEQ).

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

Dike means an earthen embankment constructed to confine or control water, especially one built along the banks of a river to prevent overflow of lowlands; levee.

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

Discharge of a pollutant means:

- A. Any addition of any pollutant or combination of pollutants to state waters from any point source; or
- B. 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.

District or Soil and Water Conservation District refers to the Monacan Soil and Water Conservation District.

Diversion means a channel with a supporting ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

Dormant means denuded land that is not actively being brought to a desired grade or condition.

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

Energy dissipator means a non-erodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

Environmental Protection Agency (EPA) means the United States Environmental Protection Agency.

Erosion and sediment control plan means a document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

Erosion impact area means an area of land that is not associated with a current land-disturbing activity but is subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

ESC means erosion and sediment control.

ESM Plan means a soil erosion control and stormwater management plan, commonly referred to as the erosion control and stormwater management plan.

ESM Permit means an approval issued by Goochland County to conduct a land-disturbing activity in accordance with this ordinance, and which may only be issued after evidence of general permit coverage has been provided by the department.

Excavating means any digging, scooping, or other methods of removing earth materials.

Farm building or structure means the same as that term is defined in Virginia Code § 36-97 and also includes any building or structure used for agritourism activity, as

defined in Virginia Code § 3.2-r 6400, and any related impervious services including roads, driveways, and parking areas.

*Filling* means any depositing or stockpiling of earth materials.

*Flume* means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

*General permit* means a permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

*Grading* means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

*Hydrologic Unit Code (HUC)* means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

*Impervious cover* means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

*Inspection* means an on-site review of the project's compliance with 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 VESMA and applicable regulations.

*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 may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

Land-disturbance approval means an approval allowing a land-disturbing activity to commence issued by the VESMP authority after the requirements of Virginia Code § 62.1-44.15:34 have been met.

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.

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.

Live watercourse means a definite channel with bed and banks within which concentrated water flows continuously.

Locality means Goochland County.

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

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

Manmade means constructed by man.

Minimize means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.

Minor modification means modifications and amendments not requiring extensive review and evaluation including 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 permit modification or amendment does not substantially alter 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.

Natural channel design concepts means the utilization of engineering analysis and fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its bankfull bench and its floodplain.

Natural stream means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with 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.

Non-erodible means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

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.

Operator means the owner or operator of any facility or activity subject to the VESMA and this ordinance. 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 permit or VESMP 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).

Owner means the same as that term is defined in Virginia Code § 62.1-44.3. For a regulated land-disturbing activity that does not require a permit, "owner" also means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

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 means a VPDES permit, or general permit, issued by the department pursuant to Virginia Code § 62.1-44.15 for stormwater discharges from a land-disturbing activity .

Permittee means the person to whom the permit is issued.

Person means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the

Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

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

Point source means any discernible, confined, and discrete conveyance including 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 or agricultural stormwater runoff.

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 ordinance.

Post-development refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

*Predevelopment* refers to the conditions that exist at the time that plans for the land- disturbing activity are submitted to the VESMP 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 commencement of land-disturbing activity 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.

*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.

*Responsible land disturber (RLD)* means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan or ESM plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan, ESM plan, or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

*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* includes maximum velocity, peak flow rate, volume, and flow duration.

*Runoff volume* means the volume of water that runs off the land development project from a prescribed storm event.

Sediment basin means a temporary impoundment built to retain sediment and debris with a controlled stormwater release structure.

Sediment trap means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

Sheet flow (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

Single-family detached residential structure means a noncommercial dwelling that is occupied exclusively by one family.

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 soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

Slope drain means tubing or conduit made of nonerosive material extending from the top to the bottom of a cut or fill slope with an energy dissipator at the outlet end.

Small construction activity means:

- A. 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 department 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 an approved "total maximum daily load" (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants 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 pollutants 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 shall certify to the department that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis. As of the start date in Table 1 of 9VAC25-31-1020, all certifications submitted in support of the waiver shall be submitted electronically by the owner or operator to the department in compliance with this subdivision and 40 CFR Part 3 (including, in all cases, 40 CFR Part 3 Subpart D), 9VAC25-875-940, and Part XI (9VAC25-31-950 et seq.) of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation. Part XI of 9VAC25-31 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of Part XI of 9VAC25-31, permittees may be required to report electronically if specified by a particular permit.

- B. Any other construction activity designated by either the department 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.

Soil erosion means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

Soil erosion control and stormwater management plan (ESM Plan) commonly referred to as the erosion control and stormwater management plan means a

document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to the VESMA. The ESM plan may consist of aspects of the erosion and sediment control plan and the stormwater management plan as each is described in this ordinance.

*Stabilized* means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

*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 administrator and the department for applying for a permit.

*State Water Control Law* means Virginia Code § 62.1-44.2 et seq.

*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.

*Storm sewer inlet* means a structure through which stormwater is introduced into an underground conveyance system.

*Stormwater*, for the purposes of the VESMA, 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:

A. Manmade stormwater conveyance system means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;

B. Natural stormwater conveyance system means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or

C. 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 detention means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

Stormwater management facility means a control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

Stormwater management plan means a document containing material describing methods for complying with the requirements of the VESMP.

Stormwater Pollution Prevention Plan (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. A SWPPP required under the VESMP for construction activities shall identify and require the implementation of control measures and shall include or incorporate by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Subdivision means the same as defined in Virginia Code § 15.2-2201.

Surface waters means:

A. 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;

B. All interstate waters, including interstate wetlands;

C. 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:

(1) That are or could be used by interstate or foreign travelers for recreational or other purposes;

(2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(3) That are used or could be used for industrial purposes by industries in interstate commerce;

D. All impoundments of waters otherwise defined as surface waters under this definition;

E. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

F. The territorial sea; and

G. 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.

SWM means stormwater management.

Temporary vehicular stream crossing means a temporary non-erodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through non-erodible material.

Ten-year storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedance probability with a 10% chance of being equaled or exceeded in any given year.

Total maximum daily load (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.

Two-year storm means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50% chance of being equaled or exceeded in any given year.

Virginia Erosion and Stormwater Management Act (VESMA) means Virginia Code § 62.1-44.15:24 et seq.

Virginia Erosion and Stormwater Management Program (VESMP) means a program established by the VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

Virginia Erosion and Stormwater Management Program authority (VESMP authority) means Goochland County, approved by the department to operate the VESMP.

Virginia Pollutant Discharge Elimination System (VPDES) permit means a document issued by the department 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.

Virginia Stormwater BMP Clearinghouse means a collection that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the VESMA and associated regulations.

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

Wasteload allocation or wasteload 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. Wasteload allocations are a type of water quality-based effluent limitation.

Water quality technical criteria means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control nonpoint source pollution.

Water quantity technical criteria means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

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 water drains may be considered the single outlet for the watershed.

Wetlands means those areas that are inundated or saturated by surface water 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.

#### Sec. 5-3. Virginia erosion and stormwater management program established.

Pursuant to Virginia Code § 62.1-44.15:27, Goochland County hereby establishes a Virginia Erosion and Stormwater Management Program (VESMP) for land-disturbing activities and adopts the Virginia Erosion and Stormwater Management Regulations (Regulations) that specify standards and specifications for VESMPs promulgated by the State Water Control Board for the purposes set out in section 5-1 of this ordinance. The Goochland County board of supervisors hereby designates the County's director of community development or designee as the Administrator of the VESMP established by this ordinance.

#### Sec. 5-4. Regulated land disturbing activities.

A. Land-disturbing activities that meet one of the criteria below are regulated as follows:

- (1) Land-disturbing activity that disturbs 10,000 square feet or more, is less than one acre, and not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Regulations.

(2) Land-disturbing activity that disturbs less than one acre, but is part of a larger common plan of development or sale that disturbs one acre or more, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875- 570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq) of Part V of the Regulations is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.

(3) Land-disturbing activity that disturbs one acre or more is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.

B. Land-disturbing activities exempt per 9VAC25-875-90 are not required to comply with the requirements of the VESMA unless otherwise required by federal law.

#### Sec. 5-5. Review and approval of plans; prohibitions.

A. The County shall review and approve soil erosion control and stormwater management (ESM) plans, except for activities not required to comply with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA), pursuant to Virginia Code § 62.1-44.15:34. Activities not required to comply with the VESMA are defined in 9VAC25-875-90.

B. A person shall not conduct any land-disturbing activity in the County until:

(1) An ESM permit application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, has been submitted to the County, all applicable permit fees have been paid, and the County has issued the ESM Permit approval;

(2) The name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to Virginia Code § 62.1- 44.15:30 is submitted to the County, except that such

certificate shall not be required where an agreement in lieu of a plan for construction of a single-family detached residential structure is provided; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by Virginia Code § 62.1-14:30. Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided by the VESMA; and

- (3) The applicant, excluding state agencies and federal entities, submits a performance bond to the County with surety, cash escrow, letter of credit, or any combination thereof, in a form acceptable to the County Attorney, to ensure the County can take measures at the applicant's expense should the applicant fail, after proper notice, within the time specified to comply with the conditions imposed as a result of the land-disturbing activity. The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five (25) percent of the cost of the conservation action. If the County takes such action upon such failure by the applicant, it 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 County's 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.

C. The County may require changes to an approved ESM plan in the following cases:

- (1) Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or
- (2) Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed

amendments to the plan, consistent with the requirements of the Act, are agreed to by the VESMP authority and the owner.

D. In order to prevent further erosion, the County may require approval of an ESM plan for any land it identifies as an erosion impact area per Virginia Code § 62.1-44.15:34.

E. The County may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.

F. No exception to or waiver of post-development nonpoint nutrient runoff compliance requirements shall be granted unless offsite options have been considered and found not available in accordance with Virginia Code § 62.1-44.15:35(D).

G. The County is authorized to cooperate with and enter into agreements with any federal or state agency in connection with the requirements for land-disturbing activities in accordance with Virginia Code § 62.1-44.15:50.

#### Sec. 5-6. Plan review timing.

The County shall approve or disapprove an ESM plan as follows:

A. The County shall determine the completeness of any ESM Permit application within 15 days after receipt and shall act on any application within 60 days after it has been determined to be complete.

B. The County shall issue either ESM Permit approval or denial and provide written rationale for any denial.

C. Prior to issuing an ESM Permit approval, the County shall obtain evidence of general permit coverage when such coverage is required.

D. The County also shall determine whether any resubmittal of a previously disapproved ESM Permit application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.

Sec. 5-7. Stormwater permit requirement; exemptions.

A. Except as provided herein, no person may engage in any land-disturbing activity until an ESM permit has been issued by the County in accordance with the provisions of this ordinance and the Regulations.

B. Notwithstanding any other provisions of this ordinance, the following activities are not required to comply with the requirements of this ordinance unless otherwise required by federal law:

(1) Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;

(2) Installation, maintenance, or repair of any individual service connection;

(3) Installation, maintenance, or repair of any underground utility line when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

(4) Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

(5) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Virginia Code;

(6) Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or

forest crops; livestock feedlot operations; agricultural engineering operations, including 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; or as additionally set forth by the Board in regulations. 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 Virginia Code § 10.1-1100 et seq. or is converted to bona fide agricultural or improved pasture use as described in Virginia Code § 10.1-1163(B);

(7) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

(8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

(9) Land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the County shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity; and

(10) Discharges to a sanitary sewer or a combined sewer system; that are not from a land- disturbing activity.

C. Notwithstanding this ordinance and in accordance with the VESMA, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:

(1) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;

(2) 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; and

(3) Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

Sec. 5-8. Stormwater pollution prevention plan (SWPPP); contents of plan.

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

B. A soil erosion control and stormwater management (ESM) plan consistent with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA) and the 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 VESMA, this ordinance, and the Regulations.

C. 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.

D. In addition to the requirements of subsections A through C of this section, if a specific wasteload allocation for a pollutant has been established in an approved 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 wasteload allocation.

E. The stormwater pollution prevention plan must address the following requirements as specified in 40 CFR 450.21, to the extent otherwise required by state law or regulations and any applicable requirements of a state permit:

(1) Control stormwater volume and velocity within the site to minimize soil erosion;

(2) Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;

(3) Minimize the amount of soil exposed during construction activity;

(4) Minimize the disturbance of steep slopes;

(5) Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;

(6) Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;

(7) Minimize soil compaction and, unless infeasible, preserve topsoil;

(8) Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the VESMP authority. 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 VESMP authority; and

(9) Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

F. The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

#### Sec. 5-9. Stormwater management (SWM) 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 ordinance and Article 4 (9VAC25-875-670 et seq) of Part V of the Regulations to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments, including those developed under subsequent owners, 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, telephone number, and email address of the owner and the tax reference number and parcel number of the property or properties affected;

(3) A narrative that includes a description of current site conditions and final site conditions or if allowed by the VESMP authority, the information provided and documented during the review process that addresses the current and final site conditions;

(4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

(5) Information on the proposed stormwater management facilities, including (i) detailed narrative on the conversion to a long-term stormwater management facility if the facility was used as a temporary ESC measure; (ii) the type of facilities; (iii) location, including geographic coordinates; (iv) acres treated; and (v) the surface waters or karst features into which the facility will discharge;

(6) Hydrologic and hydraulic computations, including runoff characteristics;

(7) Documentation and calculations verifying compliance with the water quality and quantity requirements of these regulations;

(8) A map 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;

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 planned locations of utilities, roads, and easements;

(9) If an operator intends to meet the requirements established in 9VAC25-875-580 or 9VAC25-875-600 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and

(10) If the County requires payment of a fee with the stormwater management plan submission, the fee and the required fee form in accordance with section 5-18 of this ordinance must have been submitted.

C. All final plan elements, specifications, or calculations of the stormwater management plans whose preparation requires a license under Chapter 4 (§

54.1-400 et seq.) or 22 (§ 54.1- 2200 et seq.) of Title 54.1 of the Virginia Code shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence.

Sec. 5-10. Pollution prevention plan; contents of plan.

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 as specified in 40 CFR 450.21(d) 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 in accordance with 40 CFR 450.21(e):

(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 in accordance with 40 CFR 450.21(c).

#### Sec. 5-11. Erosion and sediment control (ESC) plan; contents of plan.

A. An erosion and sediment control plan, which is a component of the ESM plan, shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives in 9VAC25-875-560. The erosion and sediment control plan may include:

(1) Appropriate maps;

(2) An appropriate soil and water plan inventory and management information with needed interpretations; and

(3) A record of decisions contributing to conservation treatment.

B. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land- disturbing activity to the County.

C. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building

construction shall be covered by an erosion and sediment control plan or an "Agreement in lieu of a plan" signed by the property owner.

D. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.

Sec. 5-12. Technical criteria for regulated land disturbing activities.

A. To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, Goochland County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part V of 9VAC25-875 expressly to include 9VAC25-875-580 [water quality design criteria requirements]; 9VAC25-875-590 [water quality compliance]; 9VAC25-875-600 [water quantity]; 9VAC25-875-610 [offsite compliance options]; 9VAC 25-875-620 [design storms and hydrologic methods]; 9 VAC 25 - 875 - 630 [stormwater harvesting]; 9VAC25-875-640 [linear development project]; and, 9VAC25-875-650 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this ordinance, except as expressly set forth in subsection B of this section.

B. Any land-disturbing activity shall be subject to Article 4 (9VAC25-875-670 et seq) of Part V of the Regulations provided:

(1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the County to be equivalent thereto (i) was approved by the County prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the technical criteria of Article 4 of Part V of 9VAC25-875, 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 permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

C. Locality, state, and federal projects shall be considered previously approved by the County and shall be subject to the technical criteria of Article 4 of Part V of 9VAC25- 875 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 permit has not been issued prior to July 1, 2014; and

(3) Land disturbance did not commence prior to July 1, 2014.

D. Land disturbing activities approved under subsections A and B of this section shall remain subject to the technical criteria of Article 4 of Part V of 9VAC25-875 for one additional permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

E. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Article 4 of Part V of 9VAC25-875.

F. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

#### Sec. 5-13. Long-term maintenance of permanent stormwater facilities.

A. The operator shall submit a construction record drawing for permanent stormwater management facilities to the County in accordance with 9VAC25-875-535. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Virginia Code stating that to the best of their knowledge, the construction

record drawing shows all adjustments and revisions to the Stormwater Management Plan made during construction and serve as a permanent record of the actual location of all constructed elements.

B. 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 in the local land records prior to issuance of ESM Permit approval 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;

(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

(5) Be enforceable by all appropriate governmental parties.

#### Sec. 5-14. Monitoring and inspections.

A. 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.

B. The County shall conduct periodic inspections on all projects during construction and either:

(1) Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or

(2) Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:

a. Approved by the department prior to implementation;

b. Established in writing;

c. Based on a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and

d. Documented by inspection records.

C. The County shall establish an inspection program that ensures that permanent stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities, which shall:

(1) Be approved by DEQ;

(2) Ensure that each stormwater management facility is inspected by the County or its designee, not to include the owner, except as provided in subsections D and E of this section, at least once every five years; and

(3) Be documented by records.

D. 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 of the Virginia Code; 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 department.

E. If a recorded instrument is not required pursuant to 9VAC25-875-130, 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.

#### Sec. 5-15. Right of entry.

A. The County or any duly authorized agent thereof may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this ordinance.

B. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, the County may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions that are required by conditions imposed by the County on a land-disturbing activity when an owner, after proper notice, has failed to take acceptable action within the time specified.

#### Sec. 5-16. Enforcement; penalties, injunctions, and other legal actions.

A. If the Administrator determines that there is a failure to comply with the permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit

conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

(1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection 2 or the permit may be revoked by the Administrator.

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

Such orders shall be issued in the same manner as a notice to comply and become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with this section.

B. Any person violating any provision of this ordinance or order issued pursuant to this section or any condition of a land-disturbance approval issued by the

county or failing to obtain a required land-disturbance approval shall be subject to a civil penalty not to exceed the limit specified in subdivision A2 or B2, as applicable, of Virginia Code § 62.1-44.15:48.

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

a. No state permit registration;

b. No SWPPP;

c. Incomplete SWPPP;

d. SWPPP not available for review;

e. No approved erosion and sediment control plan;

f. Failure to install stormwater BMPs or erosion and sediment controls;

g. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;

h. Operational deficiencies;

i. Failure to conduct required inspections;

j. Incomplete, improper, or missed inspections; and

k. Discharges not in compliance with the requirements of 9VAC25-880-70.

(2) In imposing a civil penalty pursuant to this subsection, the court may consider the degree of harm caused by the violation and the economic benefit to the violator from noncompliance.

(3) Any civil penalties assessed by a court as a result of a summons issued by the County shall be paid into the treasury of the County to be used for the purposes set forth in Virginia Code § 62.1-44.15:48.A.2.

C. With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or condition of a permit or any provision of this ordinance, the county may provide for the payment of civil charges for violations in specific sums not to exceed the limits specified in Virginia Code §§ 62.1-44.15:48. Such civil charges shall be instead of any civil penalty which could be imposed under this section.

D. In addition to any other remedy provided by this ordinance, if the Administrator 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 consistent with this section. 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 appropriate Goochland County Court to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy.

E. Notwithstanding any other civil or equitable remedy provided by this ordinance or by law, any person who willfully or negligently violates any provision of this ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both, in accordance with Virginia Code § 62.1-44.32.

F. The county attorney or commonwealth's attorney, as appropriate, shall, upon request of the county or the permit issuing authority, take legal action to enforce the provisions of this article.

#### Sec. 5-17. Administrative hearings and judicial review.

A. Any permit applicant or permittee, or person subject to the requirements of this ordinance, aggrieved by any action of the County taken without a formal hearing, or by inaction of the County, may demand in writing a formal hearing by the county board of supervisors, provided a petition requesting such hearing is filed with the director of community development within 30 days after notice of the action that caused the grievance.

B. Any hearing requested under this section shall be conducted by the board of supervisors at a regular or special meeting, or by at least one board of supervisors' member that has been designated by the board of supervisors to conduct such hearings on its behalf, at any other time and place authorized by the board of supervisors.

C. In reviewing the agent's action, the board of supervisors or its designated member(s), as the case may be, shall consider evidence and opinions presented by the aggrieved applicant and agent. After considering the evidence and opinions, the board of supervisors or its designated member(s) may affirm, reverse, or modify the action. A verbatim record of the proceedings of such hearings shall be taken and filed with the board of supervisors. Depositions may be taken and read as in actions at law.

D. The County's hearing decisions under this ordinance shall be final, subject only to review by the Goochland County Circuit Court, provided an appeal is filed within thirty (30) days from the date of the hearing decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

#### Sec. 5-18. Fees

A. *Applicability.* The fees set forth in this section apply to:

(1) All persons seeking coverage under the ESM and general permits;

(2) All persons requiring an ESM permit for ESC activities that do not require coverage under the general permit;

(3) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit;

(4) Persons whose coverage under the general permit has been revoked shall apply to DEQ for an individual permit for discharges of stormwater from construction activities;

(5) Permit and permit coverage maintenance fees outlined below may apply to each general permit holder.

B. To Whom Fees Paid. Permit fees are paid to both the County and DEQ. All associated County fees can be found in the County's fee schedule adopted as an appendix [C] to this Code. DEQ fees are provided for during the County review and approval process and follow DEQ's fee policy. However, if the project is completely administered by DEQ, such as may be the case for a state or federal project or projects covered by individual permits, then the total fee as outlined in 9VAC25-875-1400 shall be paid to DEQ.

C. Types of Fees.

(1) Permit Issuance Fees. Fees to cover costs associated with implementation of a VESMP related to land disturbing activities and issuance of general permit coverage and VESMP authority permits shall be imposed in accordance with the corresponding environmental fees listed in the county's fee schedule adopted as an appendix [C] to this Code. Such fees include the costs associated with plan review, VESMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with land-disturbing activities. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to the county's fee schedule adopted as an appendix [C] to this Code. No more than fifty (50) percent of the base fee set out in this part shall be due at the time that a stormwater management plan or ESM permit application is submitted for review in accordance with section 5-6. The remaining base fee balance shall be due prior to permit issuance.

(2) Permit Modification or Transfer Fees. Fees for the modification or transfer of registration statements for the general permit issued by DEQ for discharges of stormwater from construction activities shall be imposed in accordance with the corresponding environmental fees listed in the county's fee schedule adopted as an appendix [C] to this Code. If the general permit modifications result in changes to stormwater management plans that require additional review by the County, such reviews shall be subject to the modification or transfer fees. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage under the permit issuance fees in section A above. Modification and transfer fees are paid to

the county only. No permit shall be modified or transferred without payment of the required fee.

(3) Permit Maintenance Fees. Annual permit maintenance fees shall be imposed in accordance with the corresponding environmental fees listed in the county's fee schedule adopted as an appendix [C] to this Code, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated. General permit coverage maintenance fees shall be paid annually to the County, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee.

(4) Late Fees. All nonpayment, including incomplete payment, will be deemed as late payments, and the applicant shall be notified of any late payments. Interest may be charged for late payments at the underpayment rate set forth in Va. Code Sec. 58.1-15, which is calculated monthly at the applicable periodic rate. A ten percent late payment fee shall be charged on any delinquent account over 90 days past due. The county is entitled to all remedies available under state law in collecting any past due amount.

D. Exemptions. No fees will be assessed to:

(1) Permittees who request minor modifications to general permits as defined in section 5-2 of this ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this section.

(2) Permittees whose general permits are modified or amended at the initiative of DEQ, excluding errors in the registration statement identified by the Administrator or errors related to site acreage.

2. Goochland County Fee Schedule (Goochland County Code Appendix C) is hereby amended as follows:

GOOCHLAND COUNTY  
FEE SCHEDULE

Department/Office	County Code	Fee Description	Fee Amount
...			
Courts	Offenses and Miscellaneous Provisions § 10-73	Electronic summons system	\$5.00
<u>Environmental</u>	<u>Erosion and Stormwater § 5-18</u>	<u>Erosion and stormwater management (ESM) permit (limited residential) *foundation, drain field and driveway only- Agreement for ESM regulation in lieu of obligations defined by professionally produced plans</u>	<u>\$100.00</u>
Environmental	<u>Erosion and Stormwater § 5-138</u>	<u>Erosion and stormwater management (ESM) permit (small construction activity/land clearing - Single family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres)</u>	<u>\$300.00</u>
		<u>Erosion and Stormwater management (ESM) permit (small construction activity/land clearing sites or areas within common plans of development</u>	

		or sale with land disturbance acreage):	
		Less than 1 acre ( <u>commercial</u> )	<del>\$200.00</del> <u>1,100.00</u>
		<u>1-1.99 acres (commercial)</u>	<u>\$2,900.00</u>
		<del>12-4.99 acres (residential-commercial)</del>	<del>\$200.00</del> <u>3,500.00</u>
		<del>1-4.99 acres (commercial or industrial)</del>	<del>\$2,000.00</del>
Environmental	<u>Erosion and Stormwater § 5-138</u>	<u>Erosion and Stormwater management (ESM) permit (large construction activity/land clearing sites or areas within common plans of development or sale with land disturbance acreage):</u>	
		5-9.99 acres	<del>\$2,500.00</del> <u>4,750.00 + \$50 per acre for &gt; 5 acres</u>
		10-49.99 acres	<del>\$3,300.00</del> <u>5,550.00 + \$50 per acre for &gt; 5 acres</u>
		>50-99.99 acres	<del>\$4,400.00</del> <u>6,650.00 + \$50 per acre for &gt; 5 acres</u>
		100 or more acres	<del>\$7,000.00</del> <u>9,250.00 + \$50 per acre for &gt; 5 acres</u>
Environmental	<u>Erosion and Stormwater § 5-138</u>	<u>Erosion and Stormwater management (ESM) permit-Modification or transfer (small construction activity/land</u>	

		clearing sites or areas within common plans of development or sale with land disturbance acreage):	
		Less than 1 acre	\$20.00
		>1-4.99 acres	\$200.00
Environmental	<u>Erosion and Stormwater § 5-138</u>	<u>Erosion and Stormwater management (ESM) permit-Modification or transfer (large construction activity/land clearing sites or areas within common plans of development or sale with land disturbance acreage):</u>	
		5-9.99 acres	\$250.00
		10-49.99 acres	\$300.00
		50-99.99 acres	\$450.00
		100 or more acres	\$700.00
Environmental	<u>Erosion and Stormwater § 5-138</u>	<u>Erosion and Stormwater management (ESM) permit-Maintenance (small construction activity/land clearing sites or areas within common plans of development or sale with land disturbance acreage):</u>	
		Less than 1 acre	\$50.00
		1-4.99 acres	\$400.00
Environmental	<u>Erosion and Stormwater § 5-138</u>	<u>Erosion and Stormwater management (ESM) permit-Maintenance (large construction activity/land clearing sites or areas within common plans of</u>	

		development or sale with land disturbance acreage):	
		5-9.99 acres	\$500.00
		10-49.99 acres	\$650.00
		50-99.99 acres	\$900.00
		100 or more acres	\$1,400.00
Environmental	E&S § 5-33	<del>Land disturbance permit (limited residential) *foundation, drain field and driveway only- Agreement for erosion and sediment control regulation in lieu of obligations defined by professionally produced plans-</del>	\$100.00
Environmental	E&S § 5-33	<del>Land disturbance permit- (residential)-</del>	\$900.00
Environmental	E&S § 5-33	<del>Land disturbance permit- (commercial):-</del>	
		<del>— Less than 2 acres</del>	\$900.00
		<del>— 2-5 acres</del>	\$1,500.00
		<del>— More than 5 acres</del>	<del>\$2,250.00 + \$50- per acre for &gt; 5 acres-</del>

3. Except as amended herein, all County Code provisions remain in effect.
4. This ordinance is effective immediately.

