

ORDINANCE NO. _____

AN ORDINANCE to amend and reordain Article XIII (Environmental Management) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2013-0014.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2013-0014, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on February 4, 2014 of a text amendment to the Zoning Ordinance to adopt revised stormwater management regulations, which recommendation was approved by the City Council at public hearing on February 22, 2014

2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article XIII of the Zoning Ordinance be, and the same hereby is, amended by deleting the current section in its entirety and inserting new language, as shown:

ARTICLE XIII. - ENVIRONMENTAL MANAGEMENT

Sec. 13-100. - General findings.

13-101 - Purpose.

13-102 - Authority.

13-103 - Definitions.

13-104 - Administration.

13-105 - Designation of Chesapeake Bay Preservation Area Overlay District.

13-106 - Establishment of CBPA boundaries.

13-107 - Development, redevelopment, and uses permitted in RPAs.

13-108 - Development and uses permitted in RMAs.

13-109 - General performance requirements for CBPAs.

13-110 - Alternative stormwater management equivalency options and establishment of the Alexandria Water Quality Improvement Fund.

13-111 - Development review process.

13-112 - Environmental site assessment.

13-113 - Stormwater pollution prevention plan.

13-114 - Stormwater management plan.

13-115 - Stormwater management plan review.

13-116 - Pollution prevention plan.

13-117 - Water quality impact assessment.

13-118 - Final plans.

13-119 - Exceptions.

13-120 - Appeals.

- 1 13-121 - Hearings
- 2 13-122 - Noncomplying land uses and structures.
- 3 13-123 - Exemptions.
- 4 13-124 – Time limits on applicability and grandfathering.
- 5 13-125 – Monitoring and inspections.
- 6 13-126 - Penalties.
- 7

8 **Sec. 13-100. - General findings.**

9 The Chesapeake Bay is one of the most productive estuaries in the world, providing
10 substantial economic and social benefits to the people of the Commonwealth of Virginia.
11 Healthy state and local economies are integrally related to and dependent upon the
12 health of the Chesapeake Bay. The general welfare of the people of the Commonwealth
13 depends upon the health of the Bay.

14 The waters of the Chesapeake Bay and its tributaries, including the Potomac River and
15 Alexandria's local streams, have been degraded significantly by point source and
16 nonpoint source pollution, which threatens public health and safety and the general
17 welfare.

18 **13-101 - Purpose.**

19 (A) It is the policy of the City of Alexandria, Virginia to protect the quality of water
20 in the Chesapeake Bay and its tributaries and, to that end, to require all land uses
21 and land development in the city to:

- 22 (1) Safeguard the waters of the commonwealth from pollution;
- 23 (2) Prevent any increase in pollution of state waters;
- 24 (3) Reduce existing pollution of state waters; and
- 25 (4) Promote water resource conservation.

26 (B) To fulfill this policy, this Article XIII is adopted to minimize potential pollution
27 from stormwater runoff, minimize potential erosion and sedimentation, reduce the
28 introduction of harmful nutrients and toxins into state waters, maximize rainwater
29 infiltration while protecting groundwater, and ensure the long-term performance of
30 the measures employed to accomplish the statutory purpose.

31 (C) The provisions of this Chapter shall be deemed severable, and the invalidity or
32 unenforceability of any individual provision or section hereof shall not affect the
33 validity and enforceability of the remaining provisions of the Chapter.

34 **13-102 - Authority.**

35 This Article XIII is issued under the authority of section 62.1-44.15:73 of the Code of
36 Virginia (the Chesapeake Bay Preservation Act), 62.1-44.15:24 et seq of the Code of
37 Virginia (the Virginia Stormwater Management Act) and attendant regulations as
38 adopted by the Virginia State Water Control Board. Code of Virginia section 62.1-

1 44.15:27 specifically requires the City to adopt a Virginia Stormwater Management
2 Program.. Authority to protect water quality is also provided by section 15.2-2283 of the
3 Code of Virginia.

4 **13-103 - Definitions.**

5 The following words and terms used in this Article XIII have the following meanings,
6 unless the context clearly indicates otherwise.

7 (A) *Administrator*. The person responsible for the administration of this Article XIII,
8 which in the city shall be the director of T&ES or his/her designee.

9 (B) *Alexandria Water Quality Volume Default*. The volume equal to the first 0.5
10 inch of runoff multiplied by the total impervious area of the site as defined herein.

11 (B) *Applicant*. A person who has submitted, or plans to submit, a plan of
12 development or an exception request to the city or a person seeking approval from
13 the city for any activity that is regulated under this article.

14 (C) *Best management practice (BMP)*. Schedules of activities, prohibitions of
15 practices, maintenance procedures, and other management practices, including
16 both structural and nonstructural practices, to prevent or reduce the pollution of
17 surface water and groundwater systems from the impacts of land-disturbing
18 activities.

19 (D) *Buffer area*. An area of natural or established vegetation managed to protect
20 other components of a resource protection area and state waters from significant
21 degradation due to land disturbances. To effectively perform this function, the
22 buffer area will achieve a 75 percent reduction of sediments and a 40 percent
23 reduction of nutrients. A 100-foot wide buffer area shall be considered to meet this
24 standard.

25 (E) *Clean Water Act or CWA* means the federal Clean Water Act (33 U.S.C §1251
26 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal
27 Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended
28 by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-
29 117, or any subsequent revisions thereto.
30

31 (F) *Common plan of development or sale*. A contiguous area where separate and
32 distinct construction activities may be taking place at different times on different
33 schedules.

34 (G) *Control measure*. Any best management practice or stormwater management
35 facility, or other method used to minimize the discharge of pollutants to state
36 waters.

37 (H) *Department (DEQ)*. The Virginia Department of Environmental Quality.

38 (I) *Development*. Land disturbance and the resulting landform associated with

1 the construction or substantial alteration of residential, commercial, industrial,
2 institutional, recreational, transportation, or utility facilities or structures or the
3 clearing of land for non-agricultural or non-silvicultural purposes.

4 (J) *Director of T&ES/Director of P&Z.* Director of T&ES means the director of
5 transportation and environmental services of the City of Alexandria. Director of
6 P&Z means the director of planning and zoning of the City of Alexandria.

7 (KF) *Floodway.* All lands as defined in subsection 6-303(K) of this ordinance.

8 (L) *General permit.* The state permit titled General Virginia Pollutant Discharge
9 Elimination System (VPDES) Permit for Discharges of Stormwater from
10 Construction Activities found in 9VAC25-880 et seq) of the Virginia Stormwater
11 Management Regulations authorizing a category of discharges under the federal
12 Clean Water Act and the Virginia Stormwater Management Act within a
13 geographical area of the Commonwealth of Virginia.

14 (M) *Highly erodible soils.* Soils (excluding vegetation) with an erodibility index (EI)
15 from sheet and rill erosion equal to or greater than eight. The erodibility index for
16 any soil is defined as the product of the formula $RKLS/T$, where K is the soil
17 susceptibility to water erosion in the surface layer; R is the rainfall and runoff; LS is
18 the combined effects of slope length and steepness; and T is the soil loss
19 tolerance.

20 (N) *Highly permeable soils.* Soils with a given potential to transmit water through
21 the soil profile. Highly permeable soils are identified as any soil having a
22 permeability equal to or greater than six inches of water movement per hour in any
23 part of the soil profile to a depth of 72 inches (permeability groups "rapid" and "very
24 rapid"), as found in the "National Soil Survey Handbook" of November 1996 in the
25 "Field Office Technical Guide" of the U.S. Dept. of Agriculture Natural Resources
26 Conversation Service.

27 (O) *Impervious cover.* A surface composed of any material that significantly
28 impedes or prevents natural infiltration of water into the soil. Impervious surfaces
29 include, but are not limited to: roofs, buildings, streets, parking areas, and any
30 concrete, asphalt, or compacted gravel surface.

31 (P) *Intermittent stream.* Any natural or engineered channel (measured from top of
32 bank) with flowing water during certain times of the year, when groundwater
33 provides for stream flow. During dry periods, intermittent streams may not have
34 flowing water. Runoff from rainfall is a supplemental source of water for stream
35 flow. Acceptable methodologies for establishing the presence of an intermittent
36 stream will be provided by the director of T&ES pursuant to subsection 13-104(C).

37 (Q) *Isolated wetlands of minimal ecological value.* Those wetlands, as defined in
38 9VAC25-210-10, that:

- 39 (i) Do not have a surface water connection to other state waters;

- 1 (ii) Are less than one-tenth of an acre in size;
- 2 (iii) Are not located in a Federal Emergency Management Agency designated
3 100-year floodplain;
- 4 (iv) Are not identified by the Virginia Natural Heritage Program as a rare or
5 state significant natural community;
- 6 (v) Are not forested; and
- 7 (vi) Do not contain listed federal or state threatened or endangered species.

8 (R) *Land disturbance or land disturbing activity.* A man-made change to the land
9 surface that potentially changes its runoff characteristics, including clearing,
10 grading, filling, or excavation. (S) *Layout.* A conceptual drawing sufficient to
11 provide for the specified stormwater management facilities required at the time of
12 approval.

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

22 (U) *Natural channel.* A nontidal waterway that is part of the natural topography and
23 is generally characterized as being irregular in cross section with a meandering
24 course.

25 (V) *Nonpoint source pollution.* Contamination from diffuse sources that is not
26 regulated as point source pollution under section 402 of the Clean Water Act.

27 (W) *Nontidal wetlands.* Those wetlands, other than tidal wetlands, that are
28 inundated or saturated by surface water or groundwater at a frequency and
29 duration sufficient to support, and that under normal circumstances do support, a
30 prevalence of vegetation typically adapted for life in saturated soil conditions, as
31 defined by the U.S. Environmental Protection Agency pursuant to section 404 of
32 the Federal Clean Water Act, in 33 CFR 328.3b.

33 (X) *Operator.* The owner or operator of any facility or activity subject to regulation
34 under this Article XIII. (Y) *Permittee.* The person to whom a state permit is issued,
35 including any owner or operator whose construction site is covered under a state
36 construction general permit.

37 (Z) *Person.* Any individual, corporation, partnership, association, municipality,
38 commission, or political subdivision, of a state, governmental body, including

1 federal, state, or local entity as applicable, any interstate body or any other legal
2 entity.

3 (AA) *Pre-development*. The land use that exists at the time that plans for the
4 development are submitted to the city. Where phased development or plan
5 approval occurs (preliminary grading, roads and utilities, etc.), the land use at the
6 time the first item is submitted shall establish pre-development conditions.

7 (BB) *Post-development*. Conditions that reasonably may be expected or anticipated
8 to exist after completion of the development activity on a specific site or tract of
9 land.

10 (CC) *Public road*. For the purpose of this Article XIII, public road means a publicly
11 owned road designed and constructed in accordance with water quality protection
12 criteria at least as stringent as requirements applicable to the Virginia Department
13 of Transportation, including regulations promulgated pursuant to (i) the Erosion and
14 Sediment Control Law (section 64.1-44.15:51 et seq. of the Code of Virginia) and
15 (ii) the Virginia Stormwater Management Act (section 64.1-44.15:24 et seq. of the
16 Code of Virginia). This definition includes those roads where the Virginia
17 Department of Transportation exercises direct supervision over the design or
18 construction activities, or both, and cases where roads are constructed or
19 maintained, or both, by the City of Alexandria.

20 (DD) *Redevelopment*. The process of developing land that is or has been
21 previously developed.

22 (EE) *Regulations*. The Virginia Stormwater Management Program (VSMP) Permit
23 Regulations, 9VAC-25-870, as amended.

24 (FF) *Restored stormwater conveyance system*. A stormwater conveyance system
25 that has been designed and constructed using natural channel design concepts.
26 Restored stormwater conveyance systems include the main channel and the flood-
27 prone area adjacent to the main channel (GG) *Resource Management Area (RMA)*.
28 A Chesapeake Bay Preservation Area overlay designation as further defined in
29 section 13-105(C).

30 (HH) *Resource Protection Area (RPA)*. A Chesapeake Bay Preservation Area
31 overlay designation as further defined in section 13-105(B).

32 (II) *Shoreline*. Land contiguous to a body of water.

33 (JJ) *Site*. The land or water area where any facility or land-disturbing activity is
34 physically located or conducted, including adjacent land used or preserved in
35 connection with the facility or land-disturbing activity. Areas channelward of mean
36 low water in tidal Virginia shall not be considered part of a site. The following shall
37 be used for determining water quality and water quantity requirements in sections
38 13-109(E) & (F): For projects disturbing <50% of the tax parcel, (or if multiple
39 parcels are involved, the land subject to the application), the disturbed area shall

1 constitute the site; for projects disturbing $\geq 50\%$ of the tax parcel (or if multiple
2 parcels are involved, the land subject to the application), the entire tax parcel shall
3 constitute the site.

4 (KK) *State*. The Commonwealth of Virginia.

5 (LL) *State permit*. An approval to conduct a land-disturbing activity issued by the
6 Virginia State Water Control Board in the form of a state stormwater individual
7 permit or coverage issued under a state general permit or an approval issued by
8 the Virginia State Water Control Board for stormwater discharges from an MS4.
9 Under these state permits, the state imposes and enforces requirements pursuant
10 to the federal Clean Water Act, the Virginia Stormwater Management Act, and their
11 attendant regulations.

12 (MM) *State Water Control Law*. Chapter 3.1 (62.1-44.2 et seq) of Title 62.1 of
13 the Code of Virginia.

14 (NNII) *State waters*. All waters on the surface or in the ground, wholly or partially
15 within or bordering the commonwealth or within its jurisdiction, including wetlands.

16 (OO) *Stormwater*. Precipitation that is discharged across the land surface or
17 through conveyances to one or more waterways and that may include stormwater
18 runoff, snow melt runoff, and surface runoff and drainage.

19 (PP) *Stormwater management facility*. A device that controls stormwater runoff and
20 changes the characteristics of that runoff including, but not limited to, the quantity
21 and quality, the period of release or the velocity of flow.

22 (QQ) *Stormwater management plan*. A document or documents containing
23 material describing methods for complying with the requirements of section 13-114
24 of this article.

25 (RR) *Stormwater pollution prevention plan (SWPPP)*. A document that is prepared
26 in accordance with section 13-113 of this article and good engineering practices
27 and that identifies potential sources of pollutants that may reasonably be expected
28 to affect the quality of stormwater discharges from the construction site, and
29 otherwise meet the requirements of this article. In addition the document shall
30 identify and require the implementation of control measures, and shall include, but
31 not be limited to the inclusion of, or the incorporation by reference of, an approved
32 erosion and sediment control plan, and a pollution prevention plan.

33 (SS) *Subdivision*. Means the same as defined in section 2-197.2 of the Alexandria
34 Zoning Ordinance.(TT) *Substantial alteration*. Expansion or modification of a
35 building or development that would result in land disturbance exceeding an area of
36 2,500 square feet in the resource management area only.

37 (UU) *Tidal shore*. Land contiguous to a tidal body of water between the mean low
38 water level and the mean high water level.

1 (VV) *Tidal wetlands*. Vegetated and nonvegetated wetlands as defined in section
2 28.2-1300 of the Code of Virginia.

3 (WW) *Top of Bank*. To the extent applicable, top of bank shall be determined on
4 prevailing professional standards and the best professional judgment of the
5 director.

6 (XX) *Total maximum daily load (TMDL)*. The sum of the individual wasteload
7 allocations for point sources, load allocations for nonpoint sources, natural
8 background loading, and a margin of safety. TMDLs can be expressed in terms of
9 either mass per time, toxicity, or other appropriate measure. The TMDL process
10 provides for point versus nonpoint source trade-offs. (YY) *Use*. Any activity on the
11 land other than development, including, but not limited to agriculture, horticulture,
12 and silviculture.

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

15 (AAA) *Virginia Stormwater BMP Clearinghouse [website](#)*. A website that contains
16 detailed design standards and specifications for control measures that may be
17 used in Virginia to comply with the requirements of the Virginia Stormwater
18 Management Act and regulations.

19 (BBB) *Virginia Stormwater Management Program (VSMP)*. A program approved
20 by the Virginia State Water Control Board that has been established by a locality to
21 manage the quality and quantity of runoff resulting from land-disturbing activities
22 and shall include such items as local ordinances, rules, permits, requirements,
23 annual standards and specifications, policies and guidelines, technical materials,
24 and requirements for plan review, inspection and enforcement, where authorized in
25 this article, and evaluation consistent with the requirements of this article and
26 associated regulations.

27 (CCC) *VSMP authority*. An authority approved by the Virginia State Water
28 Control Board to operate a VSMP. For the purposes of this article, the city is the
29 VSMP authority.

30 (DDD) *Water body with perennial flow*. A body of water that flows in a natural or
31 engineered channel year-round during a year of normal precipitation. This includes,
32 but is not limited to streams, estuaries, and tidal embayments and may include
33 drainage ditches or channels constructed in wetlands or from former natural
34 drainage ways that convey perennial flow. Lakes and ponds, through which a
35 perennial stream flows, are a part of the perennial stream. Generally, the water
36 table is located above the streambed for most of the year and groundwater is the
37 primary source for stream flow. The width of the perennial stream extends from top-
38 of-bank to top-of-bank of the channel or to the limits of the normal water level for a
39 pond or lake when there is no definable top-of-bank. Acceptable methodologies for
40 establishing the presence of a water body with perennial flow will be provided by
41 the director of T&ES pursuant to subsection 13-104(C).

1 (EEE) *Water-dependent facility.* A development of land that cannot exist outside
2 of the resource protection area and must be located on the shoreline by reason of
3 the intrinsic nature of its operation. These facilities include, but are not limited to:

- 4 (i) Ports;
- 5 (ii) The intake and outfall structures of power plants, water treatment plants,
6 sewage treatment plants, and storm sewers;
- 7 (iii) Marinas and other boat docking facilities;
- 8 (iv) Beaches and other public water-oriented recreation areas; and
- 9 (v) Fisheries or other marine resources facilities.

10 (FFF) *Watershed.* The total drainage area contributing runoff to a single point.

11 (GGG) *Wetlands.* Tidal and nontidal wetlands.

12 **13-104 - Administration.**

13 (A) *Responsibility for administration.* The director of T&ES, or his/her designee, is
14 charged with responsibility for the administration of this Article XIII.

15 (B) *Duties and authority.* In the administration of this Article XIII the duties and
16 authority of the director of T&ES shall include, without limitation:

- 17 (1) Receiving applications for plan of development approval;
- 18 (2) Reviewing applications to determine if they contain all information
19 required and necessary for a determination of their merit;
- 20 (3) Reviewing applications to determine their compliance with the provisions
21 and intent of this Article XIII and their merit;
- 22 (4) Docketing items for hearing before the planning commission and
23 conferring with the city manager to schedule public hearings before the city
24 council as necessary on applications;
- 25 (5) Preparing a staff report for each application;
- 26 (6) Interpreting the provisions of this Article XIII to ensure that its intent is
27 carried out.

28 (C) *Rules, regulations, and procedures.* The director of T&ES shall promulgate
29 rules, regulations, and procedures for the administration and enforcement of this
30 Article XIII and shall promulgate rules, regulations, and procedures for the
31 processing of applications that ensure full review, comment, and recommendations
32 on each application by the department of transportation and environmental
33 services. The city manager shall promulgate rules and procedures for review by

1 other departments of applications, where such review is determined to be
2 necessary or desirable and such procedures may include the establishment of a
3 development review committee composed of departments of the city whose
4 expertise is necessary or desirable in the review of applications. All such rules,
5 regulations, and procedures shall be transmitted to the city council at the time of
6 issuance.

7 (D) *Establishment of fees.* The director of T&ES shall by general rule approved by
8 city council establish a schedule of fees required for each application under this
9 Article XIII to be paid at the time an application is submitted. The schedule of fees
10 shall include those authorized by 9VAC25-870-700 et seq. The schedule of fees is
11 set per approved council docket.

12 (E) *Responsibility for enforcement.* The director of T&ES shall have the authority
13 and the responsibility of section 11-200 and section 13-126 to ensure that all
14 buildings and structures and the use of all land complies with the provisions of this
15 Article XIII.

16 (F) The director of T&ES shall review, approve, disapprove, or approve with
17 modifications or conditions or both the following elements of the plan of
18 development:

19 (1) The environmental site assessment, required pursuant to section 13-112

20 (2) The stormwater management plan, required pursuant to section 13-114
21 and approved in accordance with section 13-115

22 (3) The erosion and sediment control plan required pursuant to section 5-4-1

23 (4) The water quality impact assessment, if required, pursuant to section 13-
24 117

25 (5) Compliance of the plan of development with section 13-106 through
26 section 13-110

27 (G) The director of T&ES shall have the authority and the responsibility to enforce
28 the requirement that a permittee must develop, implement, and keep at the site for
29 inspection a stormwater pollution prevention plan that meets the requirements set
30 forth in section 13-113 and a pollution prevention plan that meets the requirements
31 set forth in section 13-116.

32 (G) Review and decision on applications for exceptions shall be as provided in
33 section 13-119.

34 (H) Review and decision on applications for modifications to noncomplying land
35 uses and structures shall be as provided in section 13-122.

36 (I) Review and decision on applications for exemptions shall be as provided in
37 section 13-123.

1 (J) Review and decision on the remaining elements of the plan of development
2 shall be as provided in the regulations of this ordinance and the City Code
3 applicable to each such element.

4 **13-105 - Designation of Chesapeake Bay Preservation Area Overlay District.**

5 (A) All land within the corporate limits of the city is designated as a Chesapeake
6 Bay Preservation Area (CBPA). The CBPA is divided into resource protection areas
7 and resource management areas. The regulations set forth in this Article XIII shall
8 apply as an overlay district, and shall supersede any zoning, land use, or land
9 development regulation of the City Code that is inconsistent with the provisions of
10 this Article XIII.

11 (B) Resource protection areas (RPAs) consist of sensitive land that has either an
12 intrinsic water quality value due to the ecological and biological processes such
13 land performs or that is sensitive to uses or activities such that the use results in
14 significant degradation to the quality of state waters. In their natural condition,
15 these lands provide for the removal, reduction, or assimilation of nonpoint source
16 pollution entering the bay and its tributaries. An area of land that includes any one
17 of the following land types shall be considered to be within the RPA:

18 (1) Tidal wetlands;

19 (2) Tidal shores;

20 (3) Nontidal wetlands connected by surface flow and contiguous to tidal
21 wetlands or water bodies with perennial flow;

22 (4) A buffer area of 100 feet (measured from top of bank) located adjacent to
23 and landward of the components listed in paragraphs (1) through (3) above
24 and along both sides of any water body with perennial flow. The full buffer
25 area shall be designated as the landward component of the RPA
26 notwithstanding the presence of permitted uses, encroachments, and
27 vegetation clearing in compliance with this Article XIII.

28 (C) Resource management areas (RMAs) include land that, if improperly used or
29 developed, has a potential for causing significant water quality degradation or for
30 diminishing the functional value of the RPA. Therefore, all lands in the city, not
31 included in the RPA, shall constitute the RMA since all such land drains through
32 natural or manmade conveyances to the Potomac River and Chesapeake Bay.

33 **13-106 - Establishment of CBPA boundaries.**

34 (A) Chesapeake Bay Preservation Area boundaries are established by text, as
35 provided in section 13-105. The city shall publish and update in a manner
36 established by the director of T&ES pursuant to section 13-104(C) a general map
37 depicting the location of identified CBPA features. However, in all cases it is the
38 burden of the applicant to identify CBPA features and to delineate the appropriate

1 RPA boundaries in accordance with the development review process required
2 pursuant to section 13-111, or if no development review process is required, then
3 through the environmental site assessment pursuant to section 13-112

4 (B) Any property owner wishing to change the depiction of an RPA feature on the
5 general map may conduct an environmental site assessment in section 13-112 and
6 submit it to the director of T&ES. The director of T&ES may accept, modify, or
7 reject the RPA delineation based on the evidence presented by the property owner
8 and in consideration of all other available information.

9 (C) In the event that a site-specific RPA boundary delineation is contested by an
10 applicant or property owner, the applicant or property owner may request a meeting
11 with the director of T&ES to review the decision. Requests for the meeting shall be
12 made no more than 30 calendar days after notification of a modification or rejection
13 of a proposed RPA delineation. The director of T&ES will preside over the meeting
14 of the involved parties and reconsider the decision. The meeting participants will be
15 notified by the director of T&ES within 30 calendar days after the meeting of the
16 result of the reconsideration.

17 **13-107 - Development, redevelopment, and uses permitted in RPAs.**

18 The following criteria shall apply in RPAs unless the development, redevelopment, use,
19 or land disturbing activity is exempted under section 13-123 or granted an exception
20 pursuant to section 13-119. All development, redevelopment, and uses within the RPA
21 must comply with the performance criteria provided in section 13-109.

22 (A) The following are permitted within the RPA provided they do not require
23 development, redevelopment, structures, grading, fill, draining, or dredging:

24 (1) Conservation or preservation of soil, water, vegetation, fish, shellfish, and
25 other wildlife;

26 (2) Passive recreational activities, including but not limited to fishing, bird
27 watching, hiking, boating, horseback riding, swimming, and canoeing; and

28 (3) Educational activities and scientific research.

29 (B) The following are permitted within the RPA if approved by the director of
30 T&ES. A water quality impact assessment may be required by the director of T&ES
31 in accordance with section 13-117 if the project is located within an environmentally
32 sensitive area, or is of sufficient scale to affect water quality.

33 (1) Repair and maintenance of existing piers, walkways, observation decks,
34 wildlife management shelters, boathouses, and other similar water-related
35 structures provided that there is no increase in structure footprint and that any
36 required excavating and filling results in a land disturbing activity of 2,500
37 square feet or less;

38 (2) Boardwalks, trails, and pathways;

1 (3) Historic preservation and archeological activities; and

2 (4) Repair and maintenance of existing flood control and stormwater
3 management facilities.

4 (C) The following, if permitted in the underlying zone, are allowed within the RPA if
5 approved by the director of T&ES and provided that a water quality impact
6 assessment is performed and accepted by the director of T&ES as complete in
7 accordance with section 13-117.

8 (1) A new or expanded water-dependent facility may be allowed provided that
9 the following criteria are met:

10 (a) It does not conflict with the city master plan;

11 (b) Any non-water-dependent component is located outside of the RPA;
12 and

13 (c) Access to the water-dependent facility is provided with the minimum
14 disturbance necessary, and where practical, a single point of access is
15 provided.

16 (2) Redevelopment may be allowed provided that the following criteria are
17 met:

18 (a) There is no increase in impervious surface cover;

19 (b) There is no further encroachment within the RPA; and,

20 (c) The proposed redevelopment is consistent with the city master plan.

21 (3) Public flood control and stormwater management facilities that drain or
22 treat water from multiple development projects or from a significant portion of a
23 watershed, may be allowed provided that:

24 (a) The director of T&ES has conclusively established that the location
25 of the facility within the RPA is the optimum location;

26 (b) The size of the facility is the minimum necessary for flood control or
27 stormwater quality treatment, or both;

28 (c) All applicable permits for construction in state or federal waters must
29 be obtained from the appropriate state and federal agencies, such as the
30 Army Corps of Engineers, the Virginia Department of Environmental
31 Quality, and the Virginia Marine Resources Commission; and

32 (d) The facility is consistent with a city stormwater management program
33 approved by the Virginia State Water Control Board.

34 (4) Stream restoration projects and shoreline erosion control and stabilization

1 projects, including the removal of trees and woody vegetation, employment of
2 necessary restoration, control, and stabilization techniques, and establishment
3 of appropriate vegetation, may be allowed in accordance with the best
4 available technical advice and applicable permit conditions or requirements if
5 approved by the city arborist.

6 (D) In order to maintain the functional value of the RPA buffer area, existing
7 vegetation may be removed if approved by the director of T&ES and only to provide
8 for reasonable sight lines, access paths, general woodlot management, and best
9 management practices to prevent upland erosion and concentrated flows of
10 stormwater, as follows:

11 (1) Trees may be pruned or removed as necessary to provide for sight lines
12 and vistas, provided that where removed, they shall be replaced with other
13 vegetation that is equally effective in retarding runoff, preventing erosion, and
14 filtering nonpoint source pollution from runoff. Replacement vegetation shall
15 require the approval of the director of T&ES, in consultation with the
16 department of recreation, parks, and cultural activities and the department of
17 planning and zoning.

18 (2) Any path shall be constructed and surfaced so as to effectively control
19 erosion.

20 (3) Dead, diseased, or dying trees or shrubbery and noxious weeds (such as
21 Johnson grass, kudzu, and multiflora rose) may be removed and thinning of
22 trees may be conducted. The director of T&ES may approve a long term
23 management plan for a specific RPA that complies with professionally
24 recognized management practices.

25 (E) The following encroachments, if permitted in the underlying zone, are allowed
26 to the RPA buffer area if approved by the director of T&ES and provided that a
27 water quality impact assessment is performed and accepted by the director of
28 T&ES as complete in accordance with section 13-117.

29 (1) When the application of the buffer area would result in the loss of a
30 buildable area on a lot or parcel recorded prior to October 1, 1989,
31 encroachments into the buffer area may be approved by the director of T&ES
32 in accordance with the following criteria:

33 (a) Encroachments into the buffer area shall be the minimum necessary
34 to achieve a reasonable buildable area for a principal structure and
35 necessary utilities;

36 (b) Where practicable, a vegetated area that will maximize water quality
37 protection, mitigate the effects of the buffer encroachment, and is equal to
38 the area of encroachment into the buffer area shall be established
39 elsewhere on the lot; and

1 (c) The encroachment may not extend into the seaward 50 feet of the
2 buffer area.

3 (2) When the application of the buffer area would result in the loss of
4 buildable area on a lot or parcel recorded between October 1, 1989 and March
5 1, 2002, encroachments into the buffer area may be approved by the director
6 of T&ES in accordance with the following criteria:

7 (a) The lot or parcel was created as a result of a legal process
8 conducted in conformity with the city's subdivision regulations;

9 (b) Any conditions or mitigation measures imposed through previously
10 approved exceptions must be met;

11 (c) If a stormwater BMP was previously required, the BMP shall be
12 evaluated to determine if it continues to function effectively, and, if
13 necessary, the BMP shall be reestablished or repaired and maintained as
14 required; and

15 (d) The criteria in (1) above of this section shall be met.

16 **13-108 - Development and uses permitted in RMAs.**

17 Development, redevelopment, and uses authorized by the underlying zone are
18 permitted in the RMA provided such activity is carried out in accordance with all
19 applicable criteria in this Article XIII. The director of T&ES may, due to the unique
20 characteristics of a site or the intensity of the proposed development, redevelopment, or
21 use require a water quality impact assessment as provided in subsections 13-117(C)
22 and (D).

23 **13-109 - General performance requirements for CBPAs.**

24 The director of T&ES shall approve development, redevelopment, uses, or land
25 disturbing activities in the CBPA only if it is found that the activity is in compliance with
26 this Article XIII and that the applicant has demonstrated, by a preponderance of the
27 evidence, that the proposed development, redevelopment, use, or land disturbing
28 activity meets or exceeds the following standards.

29 (A) No more land shall be disturbed than is necessary to provide for the proposed
30 use, development, or redevelopment.

31 (B) Indigenous vegetation shall be preserved to the maximum extent practicable
32 consistent with the use, development, or redevelopment proposed.

33 (C) Development or redevelopment shall minimize impervious cover consistent
34 with the proposed use or development.

35 (D) The proposed development or redevelopment shall comply with section 5-4-1
36 et seq. of the City Code (erosion and sediment control).

1 (E) All development, redevelopment, and uses disturbing greater than 2,500
2 square feet shall meet the following storm water quality management performance
3 requirements. For purposes of this section, the following shall be used to define
4 the site area for determining water quality requirements: for projects disturbing less
5 than 50% of the tax parcel (or if multiple parcels are involved, the land subject to
6 the application), the disturbed area shall be used as the site area; for projects
7 disturbing greater than or equal to 50% of the tax parcel (or if multiple parcels are
8 involved, the land subject to the application), the entire tax parcel shall be used as
9 the site area.

10 (1) The entire water quality volume from the site shall be treated. When the
11 development, redevelopment, or use constitutes disturbing only a small portion
12 of a tax map parcel greater than 5 acres in size, the director of T&ES may
13 establish criteria for allowing the parcel to be divided into sub-basins.

14 (2) Single-family residences separately built and disturbing less than one acre
15 and not part of a larger common plan of development or sale, including
16 additions or modifications to existing single-family detached residential
17 structures are exempt from (3) and (4) below. The Alexandria water quality
18 volume default requirement in section (5) still applies.

19 (3) New development. The total phosphorus load of new development
20 projects shall not exceed 0.41 pounds per acre per year, as calculated
21 pursuant to this section.

22 (4) Development of prior developed lands:

23 (a) For land-disturbing activities disturbing greater than or equal to one
24 acre that results in no net increase in impervious cover from the pre-
25 development condition, the total phosphorus load shall be reduced at
26 least 20% below the pre-development total phosphorus load.

27 (b) For regulated land-disturbing activities disturbing less than one acre
28 that results in no net increase in impervious cover from the pre-
29 development condition, the total phosphorus load shall be reduced at
30 least 10% below the predevelopment total phosphorus load.

31 (c) For land-disturbing activities that result in a net increase in
32 impervious cover over the pre-development conditions, the design criteria
33 for new development shall be applied to the increased impervious area.
34 Depending on the area of disturbance, the criteria of subdivisions (a) or
35 (b) above shall be applied to the remainder of the site.

36 (d) In lieu of subdivision (c), the total phosphorus load of a linear
37 development project as defined in 9VAC25-870-10 occurring on prior
38 developed lands shall be reduced 20% below the predevelopment total
39 phosphorus load.

1 (e) The total phosphorus load shall not be required to be reduced below
2 the applicable standard for new development unless standards applied by
3 other parts of this article require a more stringent standard.

4 (5) For new development and development on prior developed lands in (3)
5 and (4) above, the entire Alexandria water quality volume default from the site
6 shall be treated, or the requirements must be met consistent with section 13-
7 110.

8 (6) Compliance with sections (3) and (4) above shall be determined using the
9 Runoff Reduction Method and through the use of stormwater BMPs
10 established in 9VAC25-870-65 or found at the Virginia BMP Clearinghouse
11 website, except as may be limited in accordance with policies established by
12 the director of T&ES in accordance with 13-104(C).

13 (7) Compliance with sections (3) and (4) may be achieved by the applicant in
14 accordance with off-site compliance options in 9VAC25-870-69 under the
15 following circumstances:

16 (a) Less than five acres of land will be disturbed;

17 (b) The post-construction phosphorus control requirement is less than
18 10 pounds per year; or,

19 (c) At least 75% of the required phosphorus nutrient reductions are
20 achieved on-site. If at least 75% of the require phosphorus nutrient
21 reductions cannot be met on-site, and the operator can demonstrate to
22 the satisfaction of the director of T&ES that (i) alternative site designs
23 have been considered that may accommodate on-site best management
24 practices, (ii) on-site best management practices have been considered
25 in alternative site designs to the maximum extent practicable, (iii)
26 appropriate on-site best management practices will be implemented, and
27 (iv) full compliance with post-development nonpoint nutrient runoff
28 compliance requirements cannot practicably be met on-site, then the
29 required phosphorus nutrient reductions may be achieved, in whole or in
30 part, through the use of off-site compliance options.

31 (8) When the requirements of sections (3) and (4) have otherwise been met,
32 the requirement to treat the entire Alexandria water quality volume default in
33 section (5) may be achieved in accordance with alternative stormwater
34 management equivalency options presented in section 13-110.

35 (9) Notwithstanding those exemptions granted under section 13-123, all such
36 land-disturbing activities shall be subject to the design storm and hydrologic
37 methods set out in 9VAC25-870-72, linear development controls in 9VAC25-
38 870-76, and criteria associated with stormwater impoundment structures in
39 9VAC25-870-85.

1 (10) Notwithstanding the above requirements, any site with (a) an intermittent
2 stream contained within an existing natural channel, or (b) a non-tidal wetland
3 that does not meet the criteria for designation as a Resource Protection Area
4 in section 13-105(B), must meet the following additional water quality
5 performance criteria:

6 (a) Measures must be taken to protect these features from direct
7 stormwater runoff from impervious surfaces and to preserve their water
8 quality functions.

9 (b) A 50-foot wide vegetated area preserved where present, or
10 established where not present, on the outward edge of these features
11 shall be considered a sufficient BMP to meet this standard if the
12 vegetated area is designed to prevent erosion and scouring.

13 (c) The BMP requirement in (b) above may alternatively be met through
14 the use of a smaller vegetated area in combination with equivalent on-site
15 stormwater treatment and/or equivalent off-site options presented in
16 section 13-110 if approved by the director of T&ES.

17 (d) Development, redevelopment, uses, and land disturbing activities
18 allowed in the vegetated area shall be the same as those allowed in
19 RPAs as described in section 13-107. Delineation of the vegetated area
20 shall be accomplished in the manner prescribed in section 13-106

21 (e) The director of T&ES may waive the requirements of (b) above if the
22 non-tidal wetland is demonstrated to the director of T&ES's satisfaction
23 that it qualifies as an isolated wetland of minimal ecological value defined
24 in section 13-103(K).

25 (F) All development and redevelopment shall meet the following channel
26 protection and flood protection requirements. Compliance with this section satisfies
27 the stormwater management requirements of 5-4-7(c)(4) of the City Code (erosion
28 and sediment control):

29 (1) Channel protection. Concentrated stormwater flow shall be released into
30 a stormwater conveyance system and shall meet the criteria of this section,
31 where applicable, from the point of discharge to a point within the limits of
32 analysis in subsection (d).

33 (a) Manmade stormwater conveyance systems. When stormwater from
34 a development is discharged to a manmade stormwater conveyance
35 system, following the land disturbing activity, either:

36 (i) The manmade stormwater conveyance shall convey the post-
37 development peak flow rate from the two-year 24-hour storm event
38 without causing erosion of the system. Detention of stormwater or
39 downstream improvements may be incorporated into the land-

1 disturbing activity to meet this criterion, at the discretion of the
2 director; or

3 (ii) The peak discharge requirements for concentrated stormwater
4 flow to natural stormwater conveyance systems in subsection (c)
5 shall be met.

6 (b) Restored stormwater conveyance systems. When stormwater from a
7 development is discharged to a restored stormwater conveyance system
8 that has been restored using natural design concepts, following the land
9 disturbing activity, either:

10 (i) The development shall be consistent, in combination with other
11 stormwater runoff, with the design parameters of the restored
12 stormwater conveyance system that is functioning in accordance with
13 the design objectives; or,

14 (ii) The peak discharge requirements for concentrated stormwater
15 flow to natural stormwater conveyance systems in subsection (c)
16 shall be met.

17 (c) Natural stormwater conveyance systems. When stormwater from a
18 development is discharged to a natural stormwater conveyance system
19 the maximum peak flow rate from the one-year 24-hour storm following
20 the land-disturbing activity shall be calculated either:

21 (i) In accordance with the following methodology:

22
$$Q_{\text{Developed}} \leq \text{I.F.} * (Q_{\text{Pre-developed}} * RV_{\text{Pre-developed}}) / RV_{\text{Developed}}$$

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

26 I.F (Improvement Factor) equals 0.8 for sites > 1 acre or 0.9 for sites
27 ≤ 1 acre.

28 $Q_{\text{Developed}}$ = The allowable peak flow rate of runoff from the developed
29 site.

30 $RV_{\text{Developed}}$ = The volume of runoff from the site in the developed
31 condition.

32 $Q_{\text{Pre-developed}}$ = The peak flow rate of runoff from the site in the pre-
33 developed condition.

34 $RV_{\text{Pre-developed}}$ = The volume of runoff from the site in pre-developed
35 condition.

1 Q_{Forest} = The peak flow rate of runoff from the site in a forested
2 condition.

3 RV_{Forest} = The volume of runoff from the site in a forested condition.

4 (d) Limits of analysis. Unless subsection (c) is utilized to show
5 compliance with the channel protection criteria, stormwater conveyance
6 systems shall be analyzed for compliance with channel protection criteria
7 to a point where either:

8 (i) Based on land area, the site's contributing drainage area is less
9 than or equal to 1.0% of the total watershed area; or,

10 (ii) Based on peak flow rate, the site's peak flow rate from the one-
11 year 24-hour storm is less than or equal to 1.0% of the existing peak
12 flow rate for the one-year 24-hour storm event prior to
13 implementation of any stormwater quantity control measures.
14

15 (2) Flood protection. Concentrated stormwater flow shall be released into a
16 stormwater conveyance system and shall meet one of the following criteria as
17 demonstrated by the use of acceptable hydrologic and hydraulic
18 methodologies:

19 (a) Concentrated stormwater flow to stormwater conveyance systems
20 that currently do not experience localized flooding during the 10-year 24-
21 hour storm event:

22 (i) The point of discharge releases stormwater into a stormwater
23 conveyance system that, following the land disturbing activity,
24 confines the post-development peak flow rate from the 10-year 24-
25 hour storm event within the stormwater conveyance system, and.

26 (ii) Unless waived under (iv), the post-development peak flow rate
27 for the 10-year 24-hour storm event shall be less than the
28 predevelopment peak flow rate from the 10-year 24-hour storm event.

29 (iii) Detention of stormwater or downstream improvements may be
30 incorporated into the approved land-disturbing activity to meet (i) and
31 (ii), at the discretion of the director of T&ES.

32 (iv) A waiver of the detention requirements and/or the downstream
33 stormwater limits of analysis in section 2 (c) may be granted by the
34 director based on factors including but not limited to the project's
35 location in the watershed.

36 (b) Concentrated stormwater flow to stormwater conveyance systems
37 that currently experience localized flooding during the 10-year 24-hour
38 storm event: The point of discharge either:

1 (i) Confines the post-development peak flow rate from the 10-year
2 24-hour storm event within the stormwater conveyance system to
3 avoid the localized flooding. Additional detention of stormwater or
4 downstream improvements may be incorporated into the approved
5 land-disturbing activity to meet this criterion, at the discretion of the
6 director; or,

7 (ii) Releases a post-development peak flow rate for the 10-year 24-
8 hour storm event that is less than the pre-development peak flow rate
9 from the 10-year 24-hour storm event.

10 (iii) A waiver of the detention requirement may be granted by the
11 director of T&ES based on factors including but not limited to the
12 amount of stormwater runoff generated, the severity of flooding
13 issues in the watershed and/or the lack of adequacy of the existing
14 conveyance system.

15 (c) Limits of analysis. Stormwater conveyance systems shall be
16 analyzed for compliance with flood protection criteria to a point where:

17 (i) The site's contributing drainage area is less than or equal to
18 1.0% of the total watershed area draining to a point of analysis in the
19 downstream stormwater conveyance system;

20 (ii) Based on peak flow rate, the site's peak flow rate from the 10-
21 year 24-hour storm even is less than or equal to 1.0% to the existing
22 peak flow rate from the 10-year 24-hour storm event prior to the
23 implementation of any stormwater quantity control measures; or,

24 (iii) The stormwater conveyance system enters a mapped floodplain
25 or other flood-prone area adopted in accordance with section 6-300
26 et seq of the City Code.

27 (d) Alternative Limits of Analysis. If 109(F)(2)(a)(i and ii) or
28 109(F)(2)(b)(ii) are utilized to comply with the flood protection criteria the
29 downstream limit of analysis shall extend to:

30 (i) A point that is at least 150 feet downstream of a point where the
31 receiving pipe or channel is joined by another that has a drainage
32 area that is at least 90 percent of the size of the first drainage area at
33 the point of confluence; or

34 (ii) A point that is at least 150 feet downstream of a point where the
35 drainage area is 360 acres or greater.

36 (3) Increased volumes of sheet flow resulting from pervious or disconnected
37 impervious areas, or from physical spreading of concentrated flow through
38 level spreaders, must be identified and evaluated for potential impacts on

1 down-gradient properties or resources. Increased volumes of sheet flow that
2 will cause or contribute to erosion, sedimentation, or flooding of down gradient
3 properties or resources shall be diverted to a stormwater management facility
4 or a stormwater conveyance system that conveys the runoff without causing
5 down-gradient erosion, sedimentation, or flooding. If all runoff from the site is
6 sheet flow and the conditions of this subsection are met, no further water
7 quantity controls are required.

8 (4) For the purposes of computing pre-development runoff, all pervious lands
9 on the site shall be assumed to be in good hydrologic condition in accordance
10 with the U.S. Department of Agriculture's Natural Resources Conservation
11 Service (NRCS) standards, regardless of conditions existing at the time of
12 computation. Pre-development runoff calculations utilizing other hydrologic
13 conditions may be utilized provided that it is demonstrated to and approved by
14 the director of T&ES that actual site conditions warrant such considerations.

15 (5) Pre-development and post-development runoff characteristics and site
16 hydrology shall be verified by site inspections, topographic surveys, available
17 soil mapping or studies, and calculations consistent with good engineering
18 practices. Guidance provided in the Virginia Stormwater Management
19 Handbook and by the Virginia Stormwater BMP Clearinghouse shall be
20 considered appropriate practices. (6) The director of T&ES may waive
21 thee requirements provided in section (2) in cases where stormwater detention
22 would conflict with the city's flood management programs. The waiver may be
23 granted based on factors including, but not limited to, the project's location in
24 the watershed and/or off-site improvement to upgrade the downstream
25 conveyance systems.

26 (7) Post-development concentrated surface waters shall not be discharged
27 on adjoining property, unless an easement expressly authorizing such
28 discharge has been granted by the owner of the affected land.

29 (G) It shall be the responsibility of the owner of any stormwater quality or quantity
30 management facility established to meet the requirements of (E) and (F) above to
31 provide adequate maintenance for proper functioning of the system. The following
32 requirements apply to all existing and future facilities constructed in the city:

33 (1) The owner shall enter into a stormwater BMP Maintenance Agreement
34 (agreement) with the city that provides all necessary provisions to ensure
35 compliance with this article, to include access for inspections. The agreement
36 shall require the provision of long-term maintenance of stormwater BMPs and
37 provide for inspections. Facility-specific inspection frequency and
38 maintenance requirements shall be set by city policy and procedures. The
39 BMP Maintenance Agreement shall be set forth in an instrument recorded in
40 the city land records. The stormwater BMP maintenance agreement form will
41 be provided by the director of T&ES in accordance with section 13-104(C).

1 (2) The owner shall prepare and submit inspection and maintenance reports
2 to the city in accordance with city policies and procedures for the specific
3 facility. Inspection and maintenance reports shall be signed by the owner of
4 the facility or an individual acting on the owner's behalf, a registered
5 professional, or a person who holds an appropriate certificate of competence
6 from the board. Such certification shall state that the facility is being
7 adequately maintained as designed.

8 (3) The owner shall provide the city with access to the facility to perform
9 quality assurance inspections and follow up inspections to ensure adequate
10 maintenance has been conducted a minimum of once every five years, or on a
11 more frequent basis at the discretion of the director. If inadequate
12 maintenance is observed by the city, the owner will be notified and an
13 adequate period specified for corrective action. If the corrective action is not
14 performed within the specified time, the city may perform the necessary
15 corrections and bill the property owner. In cases of repeated instances of
16 failure to perform required maintenance, sanctions may be imposed as
17 provided in section 13-126.

18 **13-110 - Alexandria Water Quality Improvement Fund and alternative stormwater**
19 **management equivalency options.**

20 (A) The director of T&ES, in consultation with the director of planning and zoning
21 and the director of recreation, parks, and cultural activities, as appropriate, shall
22 establish equivalent stormwater management options that may be used to meet the
23 requirements of section 13-109(E)(6) and section 13-109(E)(7)(c). Options shall
24 include the following:

25 (1) Specific onsite and offsite improvements that have been determined by
26 the director of T&ES to achieve a pollutant removal equal to or greater than
27 what would have been achieved had a traditional BMP been required; and

28 (2) Monetary contributions to the Alexandria Water Quality Improvement
29 Fund provided for in (C) below.

30 (B) Improvements may include, but not necessarily be limited to, stream
31 restoration, stream daylighting, removal of existing RPA encroachments, RPA
32 enhancement, street cleaning, combined sewer system separation, and permanent
33 preservation of open space areas beyond the city's baseline open space
34 preservation requirements.

35 (C) Monetary contributions to the Alexandria Water Quality Improvement Fund
36 shall be calculated by the director of T&ES based on estimates of the cost of
37 actually installing and maintaining onsite BMPs through their life cycle. These costs
38 will be updated on a periodic basis by the director of T&ES as required.

39 (D) In determining whether to allow equivalent stormwater options, as well as the
40 appropriate combination of onsite and offsite controls, the director of T&ES shall

1 take into consideration the following:

2 (1) Whether there is an opportunity to control impervious surface cover that
3 comes into routine contact with vehicles, including but not limited to parking
4 areas, streets and roadways except for public roads exempt under section 13-
5 109; loading docks; equipment, material, and waste storage areas; and vehicle
6 fueling, washing, storage, maintenance, and repair areas.

7 (2) Whether other environmental and public benefits such as site design,
8 open space, tree preservation, and landscaping can be achieved.

9 (3) Whether onsite stormwater detention would conflict with the city's flood
10 management programs.

11 (4) Whether site-specific constraints would make onsite treatment difficult or
12 impractical, especially when the site consists of a single-family residence
13 separately built and not part of a subdivision.

14 (5) Whether there are opportunities readily available for offsite improvements
15 within the general vicinity of the site that will provide greater water quality
16 benefits than onsite improvements;

17 (6) Whether there are opportunities to control specific pollutants of concern
18 identified within the watershed or subwatershed, including but not limited to
19 those identified by the department of environmental quality in its most recent
20 303(d) Total Maximum Daily Load (TMDL) Priority List;

21 (7) Whether there are opportunities to implement the Water Quality
22 Management Supplement to the city master plan and the city's Virginia
23 Stormwater Management Permit (VSMP) for its municipally owned separate
24 storm sewer system discharges as issued by the Department of Environmental
25 Quality; and

26 (8) Whether the cost of implementing available offsite improvements is
27 reasonably equivalent to that of a monetary contribution.

28 (9) Single family residential development projects that are exempt from the
29 water quality requirements of section 13-123(A) are considered eligible to
30 contribute to the Alexandria Water Quality Improvement Fund in section 13-
31 110(A)(2) to meet the Alexandria water quality volume default requirement in
32 section 13-107(E)(3) with no further consideration of items (1) through (8)
33 above.

34 (E) Final approval of equivalency options used for a particular site shall be made
35 at the sole discretion of the director of T&ES.

36 (F) The city hereby establishes a dedicated fund known as the Alexandria Water
37 Quality Improvement Fund to be used in conjunction with this Article XIII, the Water
38 Quality Management Supplement to the city Master Plan, and the city's Municipal

1 Separate Storm Sewer System (MS4) General Permit issued by the Virginia
2 Department of Environmental Quality. The purpose of the fund is to reduce
3 nonpoint source pollution and improve stream quality and habitat through
4 appropriate activities including, but not limited to: new BMPs, retrofit of existing
5 BMPs, riparian enhancements, stream bank stabilization and/or restoration, public
6 education and outreach, demonstration projects, water quality monitoring and
7 analysis, and other activities to meet TMDL requirements.

8 **13-111 - Development review process.**

9 (A) Any development, redevelopment, or use exceeding 2,500 square feet of land
10 disturbance within the CBPA shall be subject to the development review process
11 outlined in (C) below prior to any clearing of the site, or the issuance of any
12 building, land use, or land development permit. However, any land-disturbing
13 activity less than one acre within the CBPA shall not be required to complete a
14 registration statement for coverage under the General VPDES Permit for
15 Discharges of Stormwater from Construction Activities, but shall be subject to all
16 aspects of the development review process, to include the water quality and
17 quantity criteria in 13-109 (E) & (F).

18 (B) Notwithstanding (A) above, all development, redevelopment, or use in the
19 RPA, or in the vegetated area established under section 13-109(E)(10), regardless
20 of the amount of land disturbance, shall be subject to the review criteria established
21 in section 13-107 prior to any clearing of the site or the issuance of any building,
22 land use, or land development permit.

23 (C) The development review process application shall consist of the plans and
24 studies identified below, such application forms as the director of T&ES shall
25 require and the appropriate fees, which together shall constitute the plan of
26 development. The plans and studies identified in this section may be coordinated or
27 combined with other required submission materials, as deemed appropriate by the
28 director of T&ES. The plan of development shall contain the following elements:

29 (1) A site plan in accordance with the provisions of section 11-400 of this
30 ordinance or other applicable law and, if applicable, a subdivision plat in
31 accordance with the provisions of chapter 5, title 7 of the City Code;

32 (2) An environmental site assessment as detailed in section 13-112;

33 (3) A landscape plan in accordance with the provisions of section 11-410(CC)
34 of this ordinance certified by qualified design professionals practicing within
35 their areas of competence;

36 (4) A stormwater management plan as detailed in section 13-114 and
37 approved in accordance with section 13-115; (5) An erosion and sediment
38 control plan in accordance with the provisions of chapter 4, title 5 of the City
39 Code;

1 (6) Completion of the stormwater pollution prevention plan checklist referring to
2 standard plan language included in the final plan; and,

3 (7) For all land disturbance, development, or redevelopment within an RPA,
4 or within an environmentally sensitive area as determined by the director of
5 T&ES pursuant to section 13-117(C) or section 13-117(D), or for an exception
6 under section 13-119, a water quality impact assessment as detailed in
7 section 13-117.

8 (D) No development, redevelopment, uses, or land disturbing activities may
9 commence until the director of T&ES has approved the final site plan and a state
10 construction general permit has been issued.. The following shall be required for
11 final site plan approval:

12 (1) A General VPDES Permit for Discharges of Stormwater from Construction
13 Activities application that includes a registration statement;

14 (2) Approval by the director of T&ES of all requirements as outlined in section
15 (C) above;

16
17 (3) Payment of all applicable fees in accordance with section 113-104(D);

18 (5) Demonstration to the satisfaction of the director of T&ES, through the
19 review of the final site plan application and attendant materials and supporting
20 documentation, that all land clearing, construction, disturbance, land
21 development, and drainage will be done in accordance with this Article XIII.

22 (6) Review of a signed standard maintenance and monitoring agreement for
23 the long term maintenance of stormwater BMPs, and proof of recordation per
24 section 13-109 (G).

25 (E) As a condition of final plan approval, any development, redevelopment, or
26 land-disturbing activity of one acre or greater must develop prior to the land-
27 disturbing activity, implement, and keep at the site for inspection a stormwater
28 pollution prevention plan that meets the requirements set forth in section 13-
29 113, which includes a pollution prevention plan that meets the requirements
30 set forth in section 13-116.

31 **13-112 - Environmental site assessment.**

32 (A) The environmental site assessment shall clearly delineate the individual
33 components of the RPA as well as the total geographic extent of the RPA as
34 defined in section 13-105(B) through a methodology approved by the director of
35 T&ES under the authority of section 13-104(C).

36 (B) The environmental site assessment shall also clearly describe, map, or explain
37 the following:

1 (1) Intermittent streams contained within a natural channel through a
2 methodology approved by the director of T&ES under the authority of section
3 13-104(C).

4 (2) Highly erodible and highly permeable soils if available from existing public
5 documents or documents available to the applicant;

6 (3) Steep slopes greater than 15 percent in grade;

7 (4) Known areas of contamination;

8 (5) Springs, seeps, and related features; and

9 (6) A listing of all wetlands permits required by law (evidence that such
10 permits have been obtained shall be presented to the director of T&ES before
11 permits will be issued to allow commencement of grading or other on-site
12 activity).

13 (C) Wetlands delineations shall be performed consistent with current procedures
14 promulgated by the U.S. Army Corps of Engineers and the Environmental
15 Protection Agency.

16 (D) Site-specific evaluations or delineations of RPA boundaries shall be certified
17 by a professional engineer, land surveyor, landscape architect, soil scientist, or
18 wetland delineator certified or licensed to practice in the Commonwealth of Virginia.

19 (E) In the event that no part of the site plan area contains any elements described
20 in (A) or (B) above, the applicant and the party responsible for the evaluation may,
21 in lieu of providing an environmental site assessment plan, so certify the finding, in
22 writing and under oath, to the director of T&ES. Any permit issued in reliance upon
23 such a certification where said certification is factually inaccurate or incorrect shall
24 be void ab initio. Such invalidity shall be in addition to any other penalties which
25 may be imposed upon the makers of such certification.

26 (F) The environmental site assessment shall be drawn at the same scale as the
27 preliminary site plan or subdivision plat, and shall be certified as complete and
28 accurate by a professional engineer or a certified land surveyor. This requirement
29 may be waived by the director of T&ES when the proposed use or development
30 would result in less than 5,000 square feet of disturbed area.

31 **13-113 - Stormwater pollution prevention plan.**

32 (A) The stormwater pollution prevention plan (SWPPP) shall include the content
33 specified in 9VAC25-870-54, which includes but is not limited to, an approved
34 erosion and sediment control plan, an approved stormwater management plan, a
35 pollution prevention plan for regulated land disturbing activities, and a description of
36 any additional control measures necessary to address a TMDL. The SWPPP must
37 also comply with the requirements and general information set forth in 9VAC25-
38 880-70 Section II of the General VPDES Permit for Discharges of Stormwater From

1 Construction Activities (Construction General Permit).

2 (B) The SWPPP shall be amended by the operator whenever there is a change in
3 design, construction, operation, or maintenance that has a significant effect on the
4 discharge of pollutants to state waters that is not addressed in the existing SWPPP.

5 (C) The SWPPP must be maintained by the operator at a central location onsite.
6 If an onsite location is not available, notice of the SWPPP's location must be
7 posted near the main entrance at the construction site. Operators shall make the
8 SWPPP available for public review in accordance with Section II of the general
9 permit, either electronically or in hard copy.

10 **13-114 - Stormwater management plan.**

11 (A) The stormwater management plan must apply the stormwater technical
12 requirements of section 13-109 to the entire site. Individual lots in new residential,
13 commercial, or industrial developments shall not be considered separate land-
14 disturbing activities. The plan shall consider all sources of surface runoff and all
15 sources of subsurface and groundwater flows converted to surface runoff. The
16 plan shall contain maps, charts, graphs, tables, photographs, narrative
17 descriptions, explanations, calculations, and citations to supporting references as
18 appropriate to communicate the information required by this Article XIII. At a
19 minimum, the stormwater management plan must contain the following:

20 (1) Information on the type and location of stormwater discharges;
21 information on the features to which stormwater is being discharged including
22 surface waters, and the pre-development and post-development drainage
23 areas;

24 (2) Contact information including the name, address, and telephone number
25 of the owner and the tax reference and parcel number of the property or
26 properties affected;

27 (3) A narrative that includes a description of current site conditions and final
28 site conditions;

29 (4) A general description of the proposed stormwater management facilities
30 and a maintenance agreement and inspection schedule in accordance with
31 section 13-109(G) to ensure that the facilities will be operated and maintained
32 after construction is complete;

33 (5) Information on the proposed stormwater management facilities, including:

34 (a) The type of facilities;

35 (b) Location, including geographic coordinates;

36 (c) Acres treated; and,

- 1 (d) The surface waters into which the facility will discharge.
- 2 (6) Hydrologic and hydraulic computations, including runoff characteristics.
- 3 (7) Documentation and calculations verifying compliance with the water
4 quality and water quantity requirements of section 13-109.
- 5 (8) A map or maps of the site that depicts the topography of the site and
6 includes:
- 7 (a) All contributing drainage areas;
- 8 (b) Existing streams, ponds, culverts, ditches, wetlands, other water
9 bodies, and floodplains;
- 10 (c) Soil types, relevant geological formations, forest cover, and other
11 vegetative areas;
- 12 (d) Current land use including existing structures, roads, and locations of
13 known utilities and easements;
- 14 (e) Sufficient information on adjoining parcels to assess the impacts of
15 stormwater from the site on these parcels;
- 16 (f) The limits of clearing and grading, and the proposed drainage
17 patterns on the site;
- 18 (g) Proposed buildings, roads, parking areas, utilities, and stormwater
19 management facilities; and,
- 20 (h) Proposed land use with tabulation of the percentage of surface area
21 to be adapted to various uses, including but not limited to planned
22 locations of utilities, roads, and easements.
- 23 (B) If an operator intends to meet the water quality requirements set forth in
24 section 13-109(E) through the use of off-site credits in accordance with section 13-
25 109(E)(7), then a letter of availability from the off-site provider must be included.
26 Approved off-site options must achieve the necessary reductions prior to the
27 commencement of the applicant's land-disturbing activity except as otherwise
28 allowed by section 62.1-44.15:35 of the Code of Virginia.
- 29 (C) If the operator intends to utilize the alternative stormwater management
30 equivalency options in section 13-110 to meet the Alexandria Water Quality Volume
31 Default in section 13-109(E)(5) or the additional water quality performance criteria
32 of section 13-109(E)(7), then the operator must submit a narrative and any required
33 calculations.
- 34 (D) Site specific facilities for phased projects shall be designed for the ultimate
35 development of the contributing project watershed based on zoning,

1 comprehensive plans, local public facility master plans, or other similar planning
2 documents.

3 (E) Elements of stormwater management plans that include activities regulated
4 under Chapter 4 of Title 54.1 of the Code of Virginia be appropriately sealed and
5 signed by professional registered in the Commonwealth of Virginia and performed
6 in accordance with procedures, consistent with good engineering practice,
7 established by the director of T&ES pursuant to section 13-104(C).

8 (F) All stormwater designs that require analysis of pressure hydraulic systems
9 and/or inclusion and design of flow control structures must be sealed by a
10 professional engineer registered in the Commonwealth of Virginia.

11 (G) An as-built drawing for permanent stormwater management facilities shall be
12 submitted to the director of T&ES in accordance with section 13-114. The as-built
13 drawing shall be appropriately sealed and signed by a professional registered in
14 the Commonwealth of Virginia certifying that the stormwater facilities have been
15 constructed in accordance with the approved plan.

16 (H) The plan shall establish a long-term schedule for inspection and maintenance
17 of stormwater management facilities that includes all maintenance requirements
18 and persons responsible for performing maintenance. If the designated
19 maintenance responsibility is with a party other than the City of Alexandria, then a
20 maintenance agreement shall be executed between the responsible party and the
21 city in accordance with section 13-109(G).

22 **13-115 - Stormwater management plan review.**

23 (A) The director of T&ES shall review stormwater management plans and shall
24 approve or disapprove a stormwater management plan in accordance with the
25 following:

26 (1) The director of T&ES shall determine the completeness of the plan in
27 accordance with section 13-114 and shall notify the applicant, in writing, of
28 such determination within 15 calendar days of receipt. If the plan is deemed
29 incomplete, the above written notification shall contain the reasons the plan is
30 deemed incomplete.

31 (2) The director of T&ES shall have an additional 60 calendar days from the
32 date of the communication of completeness to review the plan, except that if a
33 determination of completeness is not made within the time prescribed above,
34 then the plan shall be deemed complete and the director of T&ES shall have
35 60 calendar days from the date of submission to review the plan.

36 (3) The director of T&ES shall review any plan that has been previously
37 disapproved within 45 calendar days of the date of re-submission.

38 (4) During the review period, the plan shall be approved or disapproved and

1 the decision communicated in writing to the person responsible for the land-
2 disturbing activity or the designated agent. If the plan is not approved, the
3 reasons for not approving the plan shall be provided in writing. Approval or
4 denial shall be based on the plan's compliance with the requirements of this
5 article.

6 (B) Approved stormwater management plans may be modified as follows:

7 (1) Modifications to an approved stormwater management plan shall be
8 allowed only after review and written approval by the director of T&ES. The
9 director of T&ES shall have 60 calendar days to respond in writing either
10 approving or disapproving such request.

11 (2) The director of T&ES may require that an approved stormwater
12 management plan be amended, within a time prescribed by the director of
13 T&ES, to address any deficiencies noted during inspection.

14 (C) The director of T&ES shall require the submission of an as-built drawing for
15 permanent stormwater facilities. The director of T&ES may elect not to require as-
16 built drawings for stormwater management facilities for which recorded
17 maintenance agreements are not required.

18 **13-116 – Pollution prevention plan.**

19 (A) The pollution prevention plan is required by 9VAC25-870-56 and shall be
20 developed, implemented, and updated as necessary, and must detail the design,
21 installation, implementation, and maintenance of effective pollution prevention
22 measures to minimize the discharge of pollutants. At a minimum, such measures
23 must be designed, installed, implemented, and maintained to:

24 (1) Minimize the discharge of pollutants from equipment and vehicle washing,
25 wheel wash water, and other wash waters. Wash waters must be treated in a
26 sediment basin or alternative control that provides equivalent or better
27 treatment prior to discharge;

28 (2) Minimize the exposure of building materials, building products,
29 construction wastes, trash, landscape materials, fertilizers, pesticides,
30 herbicides, detergents, sanitary waste, and other materials present on the site
31 to precipitation and to stormwater; and,

32 (3) Minimize the discharge of pollutants from spills and leaks and implement
33 chemical spill and leak prevention and response procedures.

34 (B) The pollution prevention plan shall include effective best management
35 practices to prohibit the following discharges:

36 (1) Wastewater from washout of concrete, unless managed by an appropriate
37 control;

1 (2) Wastewater from washout and cleanout of stucco, paint, form release oils,
2 curing compounds, and other construction materials;

3 (3) Fuels, oils, or other pollutants used in vehicle and equipment operation
4 and maintenance, and,

5 (4) Soaps or solvents used in vehicle and equipment washing.

6 (C) Discharges from dewatering activities, including discharges from dewatering
7 of trenches or excavations, are prohibited unless managed by appropriate controls.

8 **13-117 - Water quality impact assessment.**

9 (A) The purpose of the water quality impact assessment is to:

10 (1) Identify the impacts of a proposed use, development, or redevelopment
11 on water quality and lands within an RPA;

12 (2) Ensure that, where a use, development, or redevelopment does take
13 place within an RPA, it will be located on those portions of the site and in a
14 manner that will be least disruptive to the natural functions of the RPA;

15 (3) Identify the impacts of a proposed use, development, or redevelopment
16 within an RMA where the director of T&ES has determined that the proximity
17 to an RPA, the environmentally sensitive characteristics of the site, or the
18 proposed scale and intensity has the potential to affect water quality;

19 (4) Specify mitigation that will address water quality protection under the
20 foregoing circumstances or under an exception under section 13-116

21 (B) A water quality impact assessment is required for any proposed development
22 or redevelopment in the RPA, except that at the discretion of the director of T&ES a
23 water quality impact assessment may not be required if the activity is addressed
24 under section 13-107(A), section 13-107(B), or section 13-107(D). There are two
25 types of water quality impact assessments: water quality minor impact
26 assessments and water quality major impact assessments.

27 (C) A water quality minor impact assessment is required for development or
28 redevelopment within RPAs or under an exception which involves 5,000 or less
29 square feet of land disturbance; or for any development or redevelopment within
30 the RMA that involves 5,000 or less square feet of land disturbance adjacent to an
31 RPA, if required by the director of T&ES due to the presence or proximity of
32 wetlands, potential for harmful discharge of contaminants from the property, or
33 slopes greater than 15 percent which are proposed to be disturbed. A minor
34 assessment must demonstrate that the undisturbed buffer area, enhanced
35 vegetative plantings, and any required BMPs will result in the removal of no less
36 than 75 percent of sediments and 40 percent of nutrients from post-development
37 stormwater runoff and that will retard runoff, prevent erosion, and filter nonpoint
38 source pollution the equivalent of the full undisturbed buffer area. Such an

1 assessment shall include a site plan that shows the following:

2 (1) Location and description of the existing characteristics and conditions of
3 the components of the RPA as identified in section 13-105(B) and delineated
4 in the environmental site assessment required by section 13-112

5 (2) Location and nature of the proposed encroachment into the buffer area,
6 including: type of paving material; areas of clearing or grading; location of any
7 structures, drives, or other impervious cover; and sewage disposal systems or
8 reserve drainfield sites;

9 (3) Type and location of enhanced vegetation and/or proposed BMPs to
10 mitigate the proposed encroachment;

11 (4) Location of existing vegetation onsite, including the number and types of
12 trees and other vegetation to be removed in the buffer to accommodate the
13 encroachment or modification; and

14 (5) Revegetation plan that supplements the existing buffer vegetation in a
15 manner that provides for pollutant removal, erosion, and runoff control. The
16 revegetation plan will incorporate native vegetation to the extent practicable.

17 (D) A water quality major impact assessment is required for development or
18 redevelopment within RPAs or under an exception that involves more than 5,000
19 square feet of land disturbance; or for any development or redevelopment within
20 the RMA which involves more than 5,000 square feet of land disturbance adjacent
21 to an RPA, if required by the director of T&ES due to the presence or proximity of
22 wetlands, potential for harmful discharge of contaminants from the property, or
23 slopes greater than 15 percent which are proposed to be disturbed. The following
24 elements shall be included in a water quality major impact assessment:

25 (1) All of the information required in a water quality minor impact assessment
26 as specified in (C) above;

27 (2) A hydrogeological element that:

28 (a) Describes the existing topography, soils, hydrology, and geology of
29 the site;

30 (b) Describes the impacts of the proposed development or
31 redevelopment on topography, soils, hydrology, and geology on the site;

32 (c) Indicates the following:

33 (i) Disturbance or reduction of wetlands and justification for such
34 action;

35 (ii) Disruption or reductions in the supply of water to wetlands,
36 streams, lakes, rivers, or other water bodies;

- 1 (iii) Disruptions to existing hydrology, including wetland and stream
2 circulation patterns;
- 3 (iv) Source location and description of proposed fill material (may, at
4 applicant's risk, be provided when the U.S. Army Corps of Engineers
5 permit application is submitted);
- 6 (v) Location of dredge materials and location of dumping area for
7 such materials (may, at applicant's risk, be provided when the U.S.
8 Army Corps of Engineers permit application is submitted);
- 9 (vi) Locations of and impacts on adjacent shellfish beds, submerged
10 aquatic vegetation, and fish spawning areas (may, at applicant's risk,
11 be provided when the U.S. Army Corps of Engineers permit
12 application is submitted);
- 13 (vii) The estimated pre- and post-development pollutant loads in
14 runoff as delineated in the stormwater management plan required by
15 section 13-113
- 16 (viii) Estimation of percent increase in impervious surface on the site
17 and identification of the type(s) of surfacing materials to be used;
- 18 (ix) Percent of the site to be cleared for the project;
- 19 (x) Anticipated duration and phasing schedule of the construction
20 period; and
- 21 (xi) Listing of all requisite permits from all applicable agencies
22 necessary to develop the project.
- 23 (d) Describes the proposed mitigation measures for the potential
24 hydrogeological impacts. Potential mitigation measures include:
- 25 (i) Proposed erosion and sediment control measures, which may
26 include minimizing the extent of the cleared area, perimeter controls,
27 reduction of runoff velocities, measures to stabilize disturbed areas,
28 schedule and personnel for site inspection;
- 29 (ii) Proposed stormwater management system;
- 30 (iii) Creation of wetlands to replace those lost; and
- 31 (iv) Minimizing cut and fill.
- 32 (3) A supplement to the landscape plan that:
- 33 (a) Identifies and delineates the location of all significant plant material,
34 including all trees on site six inches or greater diameter breast height.
35 Where there are groups of trees, stands shall be outlined.

1 (b) Describes the impacts the development or use will have on the
2 existing vegetation. Information should include:

3 (i) General limits of clearing based on all anticipated
4 improvements, including buildings, drives, and utilities;

5 (ii) Clear delineation of all trees which will be removed; and

6 (iii) Description of plant species to be disturbed or removed.

7 (c) Describes the potential measures for mitigation. Possible mitigation
8 measures include:

9 (i) Replanting schedule for trees and other significant vegetation
10 removed for construction, including a list of possible plants and trees
11 to be used;

12 (ii) Demonstration that the proposed plan will preserve to the
13 greatest extent possible any significant trees and vegetation on the
14 site and will provide maximum erosion and overland flow benefits
15 from such vegetation;

16 (iii) Demonstration that indigenous plants are to be used to the
17 greatest extent possible; and

18 (iv) Identification of the natural processes and ecological
19 relationships inherent at the site, and an assessment of the impact of
20 the proposed use and development of the land, including mitigating
21 measures proposed in the water quality impact assessment, on
22 these processes and relationships.

23 (E) A water quality minor impact assessment shall be certified as complete and
24 accurate by a professional engineer or a certified land surveyor. The additional
25 elements required in a water quality major impact assessment shall be certified as
26 complete and accurate by a professional engineer and by a qualified environmental
27 scientist.

28 (F) For any water quality impact assessment to proceed, the director of T&ES
29 must first approve it for completeness and compliance with this Article XIII. Upon
30 receipt of any water quality major impact assessment application, the director of
31 T&ES may determine if review by the department is warranted and may request
32 the department to review the assessment and respond with written comments. Any
33 comments by the department will be incorporated into the final review by the
34 director of T&ES provided that such comments are provided by the department
35 within 90 days of the request.

36 (1) For a water quality minor impact assessment, the director of T&ES shall
37 base this finding on the following criteria:

1 (a) The necessity of the proposed encroachment and the ability to place
2 improvements elsewhere on the site to avoid disturbance of the buffer
3 area;

4 (b) Impervious surface is minimized;

5 (c) Proposed BMPs, where required achieve the requisite reductions in
6 pollutant loadings;

7 (d) The development, as proposed, meets the purpose and intent of
8 these regulations;

9 (e) The cumulative impact of the proposed development when
10 considered in relation to other development within the RPA in the vicinity,
11 both existing and proposed, will not result in a significant degradation of
12 water quality.

13 (2) For a water quality major impact assessment, the director of T&ES shall
14 base this finding on the following criteria:

15 (a) Within any RPA, the proposed development is water-dependent or
16 constitutes redevelopment;

17 (b) The disturbance of wetlands shall comply with state and federal
18 regulations;

19 (c) The development will not result in significant disruption of the
20 hydrology of the site;

21 (d) The development will not result in significant degradation of water
22 quality that could adversely affect aquatic vegetation or life;

23 (e) The development will not result in unnecessary destruction of plant
24 material on site;

25 (f) Proposed erosion and sediment control measures are adequate to
26 achieve the required reductions in runoff, and prevent off-site transport of
27 sediment during and after construction;

28 (g) Proposed stormwater management measures are adequate to
29 control the stormwater runoff to achieve the required standard for
30 pollutant control; and

31 (h) Proposed revegetation of disturbed areas will provide adequate
32 erosion and sediment control benefits, as determined by the director of
33 T&ES.

34 **13-118 - Final plans.**

35 (A) Final site plans and subdivision plats subject to this Article XIII for all lands

1 within the CBPA shall include the following additional information:

2 (1) A copy showing issuance of all wetlands permits required by law; and

3 (2) A BMP inspection schedule and maintenance agreement between the city
4 and applicant as deemed necessary and appropriate by the director of T&ES
5 to ensure proper maintenance of best management practices in order to
6 assure their continued performance.

7 (B) The following installation and bonding requirements shall be met.

8 (1) Where buffer areas, landscaping, stormwater management facilities or
9 other specifications of an approved plan are required, no certificate of
10 occupancy shall be issued until the installation of required plant materials or
11 facilities is completed, in accordance with the approved site plan.

12 (2) When the occupancy of a structure is desired prior to the completion of
13 the required landscaping, stormwater management facilities, or other
14 specifications of an approved plan, a certificate of occupancy may be issued
15 only if the applicant provides to the city a surety bond or equivalent
16 satisfactory to the director of T&ES in amount equal to the remaining plant
17 materials, related materials, and installation costs of the required landscaping
18 or facilities and/or maintenance costs for any required stormwater
19 management facilities during the construction period.

20 (3) Unless otherwise approved by the director of T&ES for a phased project,
21 all required landscaping shall be installed and approved by the first planting
22 season following issuance of a certificate of occupancy or the surety bond may
23 be forfeited to the city.

24 (4) Unless otherwise approved by the director of T&ES for a phased project,
25 all required stormwater management facilities or other specifications shall be
26 installed and approved within 18 months of project commencement. Should
27 the applicant fail, after proper notice, to initiate, complete or maintain
28 appropriate actions required by the approved plan, the surety bond may be
29 forfeited to the city. The city may collect from the applicant the amount by
30 which the reasonable cost of required actions exceeds the amount of surety
31 held.

32 (5) After all required actions of the approved site plan have been completed,
33 the applicant must submit a written request for a final inspection. If the
34 requirements of the approved plan have been completed to the satisfaction of
35 the director of T&ES, such unexpended or unobligated portion of the surety
36 bond held shall be refunded to the applicant or terminated within 60 days
37 following the receipt of the applicant's request for final inspection. The director
38 of T&ES may require a certificate of substantial completion from a professional
39 engineer or licensed surveyor before making a final inspection.

1 **13-119 - Exceptions.**

2 (A) Unless otherwise provided in this Article XIII, a request for an exception to the
3 requirements of this Article XIII shall be made pursuant to this section in writing to
4 the director of T&ES. The request shall identify the impacts of the proposed
5 exception on water quality and on lands within the RMA and RPA through the
6 performance of a water quality impact assessment that complies with the
7 provisions of section 13-117 to the extent applicable.

8 (B) For exceptions to the provisions of sections 13-109 and 13-124 other than
9 those detailed in section 13-107, the director of T&ES shall review the request for
10 an exception and the water quality impact assessment and may grant the exception
11 with such conditions and safeguards as deemed necessary to further the purpose
12 and intent of this Article XIII if the director of T&ES finds that the applicant has
13 demonstrated by a preponderance of the evidence that:

14 (1) Granting the exception will not confer upon the applicant any special
15 privileges that are denied to other property owners in the CBPA overlay
16 district;

17 (2) The exception is not based upon conditions or circumstances that are
18 self-created or self-imposed, nor does the exception arise from conditions or
19 circumstances either permitted or noncomplying that are related to adjacent
20 parcels;

21 (3) The exception is the minimum necessary to afford relief;

22 (4) The exception will be consistent with the purpose and intent of the overlay
23 district, and not injurious to water quality, the neighborhood or otherwise
24 detrimental to the public welfare;

25 (5) Reasonable and appropriate conditions are imposed, as warranted, to
26 prevent the allowed activity from causing degradation of water quality.

27 (C) Economic hardship alone is not sufficient reason to grant an exception from
28 the requirements of this Article XIII.

29 (D) Under no circumstances shall the city allow an exception to the requirement
30 that a qualified land-disturbing activity obtain the required construction general
31 permit or other state permits.

32 (E) Under no circumstances shall the city allow the use of a BMP not found on the
33 Virginia Stormwater BMP Clearinghouse website, or as applicable for projects
34 subject to 9VAC25-870 Part II. C. Notwithstanding, this shall not preclude the
35 director of T&ES from placing reasonable limitations on a BMP on the Virginia
36 Stormwater BMP Clearinghouse website.

37 (F) Exceptions to the requirements for phosphorus reductions required under
38 section 13-109(E)(3) and (4) will not be allowed unless offsite options available

1 through 9VAC25-870-69 have been considered and found not available.

2 (G) Exceptions to section 13-107 shall be heard and determined by the planning
3 commission after hearing and notice pursuant to section 11-300. The schedule for
4 reviewing the exception shall be made by the director of T&ES and the director of
5 planning and zoning. The schedule shall provide, in a manner approved by the city
6 manager, reasonable opportunity for review and action by the environmental policy
7 commission prior to any formal action by the planning commission so that any
8 recommendation of support, denial, or modification can be considered as part of
9 the planning commission's deliberations.

10 (H) A record of all exceptions granted shall be maintained by the director of T&ES.

11 (I) Any person aggrieved by a decision of the director of T&ES or planning
12 commission under this section may appeal as provided in section 13-120.

13 **13-120 - Appeals.**

14 (A) Any person aggrieved by a final case decision of the director of T&ES in the
15 administration, interpretation or enforcement of this Article XIII or on any application
16 hereunder may appeal such decision to the planning commission, by filing a notice
17 of appeal, in writing, stating the grounds of appeal, with the secretary of the
18 planning commission within 14 days of the issuance of such decision; provided,
19 that any person aggrieved, who had no actual knowledge of the issuance of such
20 decision, may file an appeal within 14 days of the last day on which notice provided
21 in section 11-300 or section 11-408 of this ordinance is given for any element of the
22 plan of development. A notice of appeal shall be accompanied by a filing fee of
23 \$100.00.

24 (B) The planning commission shall conduct a public hearing on any appeal filed
25 pursuant to section 13-120(A), notice for which shall be provided in accordance
26 with the applicable provisions of section 11-300 of this ordinance. Following the
27 conclusion of the hearing, the planning commission may affirm, reverse or modify
28 the decision of the director of T&ES, or vacate the decision and remand the matter
29 to the director of T&ES for further consideration.

30 (C) Any person aggrieved by a decision of the planning commission issued
31 pursuant to section 13-119(D) or section 13-120(B), or the city manager, may
32 appeal the decision to the city council, by filing a notice of appeal, in writing, stating
33 the grounds of appeal, with the city clerk within 14 days of the issuance of the
34 decision.

35 (D) The city council shall conduct a public hearing on any appeal filed pursuant to
36 subsection (C), notice for which shall be provided in accordance with the applicable
37 provisions of section 11-300 of this ordinance. Following the conclusion of the
38 hearing, the council may affirm, reverse or modify the decision of the commission,
39 or vacate the decision and remand the matter to the planning commission or the
40 director of T&ES for further consideration.

1 (E) Notwithstanding the provisions of subsections (A) through (D) above, an
2 applicant or any aggrieved party who elects to appeal shall appeal the director of
3 T&ES's decision of approval or disapproval of a stormwater management plan
4 application by filing a notice of appeal with the director of T&ES within 30 days after
5 service of such decision. The filing of such notice, and proceedings thereafter, shall
6 be governed by part 2A of the Rules of the Supreme Court of Virginia, and judicial
7 review shall be had in the Circuit Court of the City of Alexandria on the record
8 previously established, and shall otherwise be in accordance with the
9 Administrative Process Act, Virginia Code sections 9-6.14:1 et seq.

10 **13-121 - Hearings.**

11 (A) Any applicant, permittee, or person subject to this article aggrieved by any
12 action of the city taken without a formal hearing, or by inaction of the city, may
13 demand in writing a formal hearing by the planning commission, provided a petition
14 requesting such hearing is filed with the director of T&ES within 30 days after
15 notice of such action is given by the director of T&ES.

16 (B) The hearings held under this section shall be conducted by the planning
17 commission at a regular or special meeting of the planning commission or by at
18 least one member of the planning commission designated by the planning
19 commission to conduct such hearings on behalf of the planning commission at any
20 other time and place authorized by the planning commission.

21 (C) A verbatim record of the proceedings of such hearing shall be taken and filed
22 with the planning commission. Depositions may be taken and read as in actions at
23 law.

24 (D) The planning commission or its designated member, as the case may be, shall
25 have power to issue subpoenas and subpoenas duces tecum, and at the request of
26 any party shall issue such subpoenas. The failure of a witness without legal
27 excuse to appear or testify or to produce documents shall be acted upon by the city
28 whose action may include the procurement of an order of enforcement from the
29 circuit court. Witnesses who are subpoenaed shall receive the same fees and
30 reimbursements for mileage as in civil actions.

31 **13-122 - Noncomplying land uses and structures.**

32 (A) Any land use or structure lawfully existing on January 28, 1992, or any land
33 use or structure that exists at the time of any amendment to this Article XIII that
34 does not comply as a result of the amendment, shall be deemed noncomplying.

35 (B) Any proposed land use or structure for which an applicant has an approved
36 preliminary site plan, building permit, subdivision plan, plot plan, or special use
37 permit on or before February 23, 2004 that would not comply under proposed
38 amendments to Article XIII pursuant to the December 10, 2001 amendments to
39 9VAC10-20-10 et seq may be constructed in accordance with the provisions of this
40 Article XIII in effect at the time of submittal, except that the proposed land use or

1 structure shall comply with any new requirements to the maximum extent
2 practicable. Upon completion, the land use or structure shall be deemed
3 noncomplying.

4 (C) Any application for a proposed land use or structure that is not exempt
5 pursuant to (A) or (B) above shall comply with amendments to Article XIII adopted
6 pursuant to the December 10, 2001 amendments to 9VAC10-20-10 et seq.

7 (D) Nothing in this Article XIII shall prevent the reconstruction of noncomplying
8 structures destroyed by any casualty unless the reconstruction is otherwise
9 restricted by this ordinance or other portions of the City Code. Such reconstruction
10 shall occur within two years after the destruction or damage and there shall be no
11 increase in the amount of impervious area and no further encroachment in the
12 RPA, to the extent possible by sound engineering practices.

13 (E) Any noncomplying land use or structure may continue and be maintained,
14 including renovation, remodeling, and other cosmetic alterations provided that the
15 activity does not result in land disturbance and that there is no net increase in
16 nonpoint source pollutant load.

17 (F) A request to enlarge or expand a principal noncomplying structure within an
18 RPA buffer area may be approved by the director of T&ES through an
19 administrative process provided that:

20 (a) The principal structure remains intact and the modification is compatible
21 in bulk and scale to those in the surrounding neighborhood area, as
22 determined by the director of planning and zoning. If these criteria are not met,
23 the modification shall be subject to the exception request process
24 requirements of section 13-119.

25 (b) There will be no increase in nonpoint source pollution load.

26 (c) Any development or land disturbance exceeding and area of 2,500
27 square feet complies with section 5-4-1 et seq. of the City Code (erosion and
28 sediment control).

29 (d) The director of T&ES finds that the request is consistent with the criteria
30 provided in section 13-116(B).

31 (G) A request to construct or modify a non-attached noncomplying accessory
32 structure, or a request to modify or expand a noncomplying land use (e.g., a
33 parking area, boat storage area, active recreation fields, etc.), shall only be
34 approved through the exceptions process outlined in section 13-119.

35 **13-123 - Exemptions.**

36 (A) The following uses, which may involve structures, fill, flooding, draining,
37 dredging, or excavating, shall be exempted from section 13-107, to the extent
38 specifically enumerated in these regulations and not prohibited by any other

1 provision of the City Code or applicable law and subject to the director of T&ES
2 review and approval of design and construction plans for compliance with this
3 Article XIII:

4 (1) Construction, installation, operation and maintenance of electric, natural
5 gas, fiber-optic, and telephone lines, railroads and public roads constructed by
6 VDOT or by or for the City of Alexandria in accordance with VDOT standards
7 (built separately from development projects regulated under section 13-106),
8 and their appurtenant structures. The exemption of public roads is further
9 conditioned on the alignments being designed to prevent or otherwise
10 minimize the encroachment in the RPA buffer and to minimize adverse effects
11 on water quality.

12 (2) Construction, installation, and maintenance of water, sewer, natural gas,
13 underground telecommunications and cable television lines owned or
14 permitted by the City of Alexandria or a service authority shall be exempt from
15 the requirements of section 13-107 provided that:

16 (a) To the degree possible, the location of such utilities and facilities
17 shall be outside RPAs;

18 (b) No more land shall be disturbed than is necessary to provide for the
19 proposed utility installation; and,

20 (c) All such construction, installation, and maintenance of such utilities
21 and facilities shall be in compliance with all applicable state and federal
22 requirements and permits, and designed and conducted in a manner that
23 protects water quality.

24
25 (B) Notwithstanding any other provisions of this article, the following uses, which
26 may involve structures, fill, flooding, draining, dredging, or excavating, shall be
27 exempt from this article.:

28 (1) Land disturbing activities less than 2,500 square feet not part of a larger
29 common plan of development or sale, except as may be required in 13-107 for
30 CPBA,

31 (2) Land disturbances associated with permitted surface or deep mining
32 operations and projects, or oil and gas operations and projects conducted
33 under the provisions of Title 45.1 of the Code of Virginia;

34 (3) Routine maintenance that is performed to maintain the original line and
35 grade, hydraulic capacity, or original construction of a project. The paving of
36 existing road with a compacted or impervious surface and re-establishment of
37 existing ditches and shoulders is deemed routine maintenance if performed in
38 accordance with this subsection;

1 (4) Conducting land-disturbing activities in response to a public emergency
2 where the related work requires immediate authorization to avoid imminent
3 endangerment to human health or the environment. In such situations, the
4 director of T&ES shall be advised of the disturbance within seven days of
5 commencing the land-disturbing activity and compliance with this Article XIII
6 shall be required within 30 days of commencing the land-disturbing activity;

7 (5) Land clearing for agricultural or silvicultural purposes, and related
8 activities, in accordance with section 62.1-44.15:34.C.2 of the Code of Virginia;
9 and,

10 (6) Activities under a state or federal reclamation program to return an
11 abandoned property to an agricultural or open land use.

12 (C) Discharges to a sanitary sewer or a combined sewer shall be exempt from
13 section 13-113 (stormwater pollution prevention plan), section 13-116 (pollution
14 prevention plan), and the requirement to obtain a VSMP construction general
15 permit unless otherwise required by City Code or state or federal law . All other
16 applicable portions of this article shall continue to apply.

17 (D) Single-family residences separately built and disturbing less than one acre
18 and not part of a larger common plan of development or sale, including additions
19 or modifications to existing single-family detached residential structures are
20 exempt from the water quality requirements of sections 109(E)(3) and (E)(4)
21 except the Alexandria water quality volume default requirement in section
22 109(E)(5) still applies.

23
24
25 **13-124 – Time limits on applicability of design criteria and Grandfathering.**

26 (A) The time limits on applicability of design criteria shall apply provided:

27 (1) Land-disturbing activities that obtain an initial state permit or commence
28 land disturbance prior to July 1, 2014 shall be conducted in accordance with
29 the technical criteria in 9VAC-25-870-93 through 9VAC25-870-99. Such
30 projects shall remain subject to these technical criteria for two additional state
31 construction general permit cycles. After such time, portions of the project not
32 under construction shall become subject to any new technical criteria adopted
33 by the board.

34 (2) Land-disturbing activities that obtain an initial state construction general
35 permit on or after July 1, 2014 shall be conducted in accordance with the
36 technical criteria in sections 109 (E) and (F), except for as provided in (B)
37 below, and shall remain subject to this technical criteria for two additional state
38 permit cycles. After such time, portions of the project not under construction

1 shall become subject to any new technical criteria adopted by the board.

2 (3) Nothing in this section shall preclude an operator from constructing to a
3 more stringent standard at his/her discretion.

4 (B) Grandfathering provisions established in 9VAC25-870-48 shall apply to this
5 article as applicable. Any land disturbing activity shall be considered grandfathered
6 by the VSMP authority and shall be subject to the technical criteria of 9VAC25-870-
7 93 through 9VAC25-870-99, provided:

8 (1) A proffered or conditional zoning plan, zoning with a plan of development,
9 preliminary or final subdivision plat, preliminary or final site plan, or any
10 document determined by the locality to be equivalent thereto (i) was approved
11 by the locality prior to July 1, 2012, (ii) provided a layout as defined in
12 9VAC25-870-10, (iii) will comply with the technical criteria of 9VAC25-870-93
13 through 99, (iv) has not been subsequently modified or amended in a manner
14 resulting in an increase in the amount of phosphorus leaving each point of
15 discharge, and such that there is no increase in the volume or rate of runoff;

16 (2) A state permit has not been issued prior to July 1, 2014; and

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

18 (C) Locality, state and federal projects shall be considered grandfathered and
19 shall be subject to the technical criteria in 9VAC25-870-93 through 9VAC25-870-
20 99 provided:

21 (1) There has been an obligation of locality, state or federal funding, in whole
22 or in part, prior to July 1, 2012, or the department has approved a stormwater
23 management plan prior to July 1, 2012;

24 (2) A state permit has not been issued prior to July 1, 2014; and

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

26 (D) Land disturbing activities grandfathered under subsections A and B of this
27 section shall remain subject to 9VAC25-870-93 through 99 technical criteria for
28 one additional state permit cycle. After such time, portions of the project not under
29 construction shall become subject to any new technical criteria adopted by the
30 board.

31 (E) In cases where governmental bonding or public debt financing has been
32 issued for a project prior to July 1, 2012, such project shall be subject to the
33 technical criteria of 9VAC25-870-93 through 99.

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

36 (G) However, these applicable land-disturbing activities are also subject to

1 more stringent City criteria effective prior to July 1, 2014. This includes the
2 definition of “site”, treating the entire Alexandria water quality volume in 13-109(E),
3 the pre/post-development peak flow rate requirement for the 10-year 24-hour storm
4 event in 13-109(F)(2), the requirements in 13-109(F)(3), and the requirements in
5 13-109(F)(7).

6 **13-125 – Monitoring and inspections.**

7 (A) The director of T&ES shall inspect the land disturbing activity during
8 construction for compliance with this Article XIII, including but not limited to
9 compliance with the approved erosion and sediment control plan, compliance with
10 the approved stormwater management plan, development, updating, and
11 implementation of the pollution prevention plan, and development and
12 implementation of any additional control measures necessary to address a TMDL.

13 (B) The director of T&ES may, at reasonable times and under reasonable
14 circumstances, enter any establishment or upon any property, public or private, for
15 the purpose of obtaining information or conducting surveys or investigations
16 necessary in the enforcement of the provisions of this Article XIII.

17 (C) In accordance with a performance bond with surety, cash escrow, letter of
18 credit, any combination thereof, or such other legal arrangement or instrument, the
19 director of T&ES may also enter any establishment or upon any property, public or
20 private, for the purpose of initiating or maintaining appropriate actions that are
21 required by the permit conditions associated with a land-disturbing activity when a
22 permittee, after proper notice, has failed to take acceptable action within a time
23 specified.

24 (D) Pursuant to section 62.1-44.15:40 of the Code of Virginia, the director of T&ES
25 may require every permit applicant or permittee, or any such person subject to the
26 requirements of this Article XIII to furnish when requested such application
27 materials, plans, specifications, and other pertinent information as may be
28 necessary to determine the effect of the discharge on the quality of state waters, or
29 such other information as may be necessary to accomplish the purpose of this
30 Article XIII.

31 (E) Post-construction inspections of stormwater management facilities required by
32 the provisions of this Article XIII shall be conducted by the director of T&ES
33 pursuant to section 13-109(G).

34 **13-126 - Penalties.**

35 (A) Under the authority of 9VAC25-870-116 the director of T&ES shall have the
36 following authority to enforce provisions of this Article XIII required or authorized
37 under section 62.1-44.15:24 et seq of the Code of Virginia (the Virginia Stormwater
38 Management Act) and its attendant regulations:

39 (1) If the director determines that there is a failure to comply with the VSMP

1 authority permit conditions or determines there is an unauthorized discharge,
2 notice shall be served upon the permittee or person responsible for carrying
3 out the permit conditions by any of the following: verbal warnings and
4 inspection reports, notices of corrective action, consent special orders, and
5 notices to comply. Written notices shall be served by registered or certified
6 mail to the address specified in the permit application or by delivery at the site
7 of the development activities to the agent or employee supervising such
8 activities.

9 (a) The notice shall specify the measures needed to comply with the
10 permit conditions and shall specify the time within which such measures
11 shall be completed. Upon failure to comply within the time specified, a
12 stop work order may be issued in accordance with Subsection (b) or the
13 permit may be revoked by the director of T&ES.

14 (b) If a permittee fails to comply with a notice issued in accordance with
15 this Section within the time specified, the director of T&ES may issue an
16 order requiring the owner, permittee, person responsible for carrying out
17 an approved plan, or the person conducting the land-disturbing activities
18 without an approved plan or required permit to cease all land-disturbing
19 activities until the violation of the permit has ceased, or an approved plan
20 and required permits are obtained, and specified corrective measures
21 have been completed.

22 Such orders shall be issued in accordance with local procedures. Such
23 orders shall become effective upon service on the person by certified
24 mail, return receipt requested, sent to his address specified in the land
25 records of the locality, or by personal delivery by an agent of the director
26 of T&ES. However, if the director of T&ES finds that any such violation is
27 grossly affecting or presents an imminent and substantial danger of
28 causing harmful erosion of lands or sediment deposition in waters within
29 the watersheds of the Commonwealth or otherwise substantially
30 impacting water quality, it may issue, without advance notice or hearing,
31 an emergency order directing such person to cease immediately all land-
32 disturbing activities on the site and shall provide an opportunity for a
33 hearing, after reasonable notice as to the time and place thereof, to such
34 person, to affirm, modify, amend, or cancel such emergency order. If a
35 person who has been issued an order is not complying with the terms
36 thereof, the director of T&ES may institute a proceeding for an injunction,
37 mandamus, or other appropriate remedy in accordance with (3) below.

38 (2) In addition to any other remedy provided by this article, if the director of
39 T&ES or his designee determines that there is a failure to comply with the
40 provisions of this article, they may initiate such informal and/or formal
41 administrative enforcement procedures in a manner that is consistent with
42 local public facilities/engineering manuals and/or specific policy.

1 (3) Any person violating or failing, neglecting, or refusing to obey any rule,
2 regulation, ordinance, order, approved standard or specification, or any permit
3 condition issued by the director of T&ES may be compelled in a proceeding
4 instituted in the appropriate local court by the Locality to obey same and to
5 comply therewith by injunction, mandamus or other appropriate remedy.

6 (4) Any person who violates any provision of this article or who fails,
7 neglects, or refuses to comply with any order of the director of T&ES, shall be
8 subject to a civil penalty not to exceed \$32,500 for each violation within the
9 discretion of the court. Each day of violation of each requirement shall
10 constitute a separate offense.

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

13 (i) No state permit registration;

14 (ii) No SWPPP;

15 (iii) Incomplete SWPPP;

16 (iv) SWPPP not available for review;

17 (v) No approved erosion and sediment control plan;

18 (vi) Failure to install stormwater BMPs or erosion and sediment
19 controls;

20 (vii) Stormwater BMPs or erosion and sediment controls improperly
21 installed or maintained;

22 (viii) Operational deficiencies;

23 (ix) Failure to conduct required inspections;

24 (x) Incomplete, improper, or missed inspections; and,

25 (xi) Discharges not in compliance with the requirements of 4FAC50-
26 60-1170 of the general permit.

27 (b) The director of T&ES may issue a summons for collection of the civil
28 penalty and the action may be prosecuted in the appropriate court.

29 (c) In imposing a civil penalty pursuant to this Subsection, the court may
30 consider the degree of harm caused by the violation and also the
31 economic benefit to the violator from noncompliance.

32 (d) Any civil penalties assessed by a court as a result of a summons
33 issued by the city shall be paid into the treasury of the city and
34 specifically placed into the Alexandria Water Quality Improvement Fund

1 established in section 13-110 and used for the purpose of minimizing,
2 preventing, managing, or mitigating pollution of the waters of the city and
3 abating environmental pollution therein in such manner as the court may,
4 by order, direct.

5 (5) Notwithstanding any other civil or equitable remedy provided by this
6 section or by law, any person who willfully or negligently violates any provision
7 of this article, any order of the director of T&ES, any condition of a permit, or
8 any order of a court shall, be guilty of a misdemeanor punishable by
9 confinement in jail for not more than 12 months or a fine of not less than
10 \$2,500 nor more than \$32,500, or both.

11 (B) Under the authority of 62.1-44.15:74 of the Code of Virginia the director of
12 T&ES shall have the following authority to enforce provisions of this Article XIII
13 required or authorized under section 62.1-44.15:73 of the Code of Virginia (the
14 Chesapeake Bay Preservation Act) and its attendant regulations:

15 (1) Any person who: (i) violates any provision of this ordinance or (ii) violates
16 or fails, neglects, or refuses to obey any final notice, order, rule, regulation, or
17 variance or permit condition authorized under this ordinance shall, upon such
18 finding by an appropriate circuit court, be assessed a civil penalty not to
19 exceed \$5,000.00 for each day of violation. Such civil penalties may, at the
20 discretion of the court assessing them, be directed to be paid into the
21 Alexandria Water Quality Improvement Fund for the purpose of abating
22 environmental damage to or restoring Chesapeake Bay Preservation Areas
23 therein, in such a manner as the court may direct by order, except that where
24 the violator is the city itself or its agent, the court shall direct the penalty to be
25 paid into the state treasury.

26 (2) With the consent of any person who: (i) violates any provision of this
27 ordinance related to the protection of water quality in Chesapeake Bay
28 Preservation Areas or (ii) violates or fails, neglects, or refuses to obey any
29 notice, order, rule, regulation, or variance or permit condition authorized under
30 this ordinance, the city may provide for the issuance of an order against such
31 person for the one-time payment of civil charges for each violation in specific
32 sums, not to exceed \$10,000.00 for each violation. Such civil charges shall be
33 paid into the city water quality improvement fund for the purpose of abating
34 environmental damage to or restoring Chesapeake Bay Preservation Areas
35 therein, except that where the violator is the city itself or its agent, the civil
36 charges shall be paid into the state treasury. Civil charges shall be in lieu of
37 any appropriate civil penalty that could be imposed under (A) above. Civil
38 charges may be in addition to the cost of any restoration required or ordered
39 by the city.

40 (C) In addition to (A) and (B) above, the director of T&ES shall have the
41 enforcement provisions available in section 11-200 of this ordinance.
42

