

13-102 - Authority.

This Article XIII is issued under the authority of Section 62.1-44.15:73 of the Code of Virginia (the Chesapeake Bay Preservation Act), 62.1-44.15:24 et seq. of the Code of Virginia (~~the Virginia Stormwater Management Act~~) (the Virginia Erosion and Stormwater Management Act) and attendant regulations as adopted by the Virginia State Water Control Board. Code of Virginia Section 62.1-44.15:27 specifically requires the City to adopt a ~~Virginia Stormwater Management Program~~ Virginia Erosion and Stormwater Management Program. Authority to protect water quality is also provided by Section 15.2-2283 of the Code of Virginia.

13-103 - Definitions.

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

(M) Floodway. All lands as defined in subsection 6-303(~~KO~~) of this ordinance.

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

(EE) Public road. For the purpose of this Article XIII, public road means a publicly owned road designed and constructed in accordance with water quality protection criteria at least as stringent as requirements applicable to the Virginia Department of Transportation, including regulations promulgated pursuant to (i) ~~the Erosion and Sediment Control Law (Section 64.1-44.15:51 et seq. of the Code of Virginia)~~ and (ii) ~~the Virginia Stormwater Management Act (Section 64.1-44.15:24 et seq. of the Code of Virginia)~~ the Virginia Erosion and Stormwater Management Act (Section 62.1-44.15:51 et seq. of the Code of Virginia). This definition includes those roads where the Virginia Department of Transportation exercises direct supervision over the design or construction activities, or both, and cases where roads are constructed or maintained, or both, by the City of Alexandria.

(GG) Regulations. ~~The Virginia Stormwater Management Program (VSMP) Permit Regulations, 9VAC 25-870, as amended.~~ The Virginia Erosion and Stormwater Management Program (VESMP) Permit Regulations, 9VAC25-875, as amended.

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

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

(CCC) Virginia Stormwater BMP Clearinghouse website. A website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the ~~Virginia Stormwater Management Act~~ Virginia Erosion and Stormwater Management Act and regulations.

(DDD) ~~Virginia Stormwater Management Program (VSMP)~~ Virginia Erosion and Stormwater Management Program (VESMP). A program approved by the Virginia State Water Control Board that has been established by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permits, requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection and enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the Virginia Erosion and Stormwater Management Act.

(EEE) ~~VSMP~~ VESMP authority. An authority approved by the Virginia State Water Control Board to operate a ~~VSMP~~ VESMP. For the purposes of this article, the city is the ~~VSMP~~ VESMP authority.

(FFF) ~~VSMP~~ VESMP authority permit. An approval to conduct a land-disturbing activity issued by the city for the initiation of a land-disturbing activity after evidence of general permit coverage has been provided where applicable. In the City of Alexandria

a ~~VSMP~~ VESMP authority permit is not a separate permit. Rather, the issuance of a building, land use, or other land development permit is contingent on a proposed land-disturbing activity meeting all ~~VSMP~~ VESMP authority permit requirements in ~~9VAC-25-870~~ 9VAC25-875 and the requirements of this article.

13-104 - Administration.

(D) Establishment of fees. The director of T&ES shall by general rule approved by city council establish a schedule of fees required for each application under this Article XIII to be paid at the time an application is submitted. The schedule of fees shall include those authorized by ~~9VAC25-870-700~~ 9VAC25-875-1290 et seq. The schedule of fees is set per approved council docket.

13-109 - General performance requirements for CBPAs.

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

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

(2) Single-unit residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-unit detached residential structures are exempt from subsections (4) and (5) below. The Alexandria water quality volume default requirement in subsection (6) still applies. “Single unit residences separately built” shall mean “single family detached residential structures” as used in § 62.1-44.15:34 C. 3.

- (3) In order to protect the quality of state waters located within the City of Alexandria and to control the discharge of stormwater pollutants from regulated activities, the following minimum design criteria and statewide standards for stormwater management, per ~~9VAC25-870-63~~ 9VAC25-875-580 shall be applied.
- (4) New development. The total phosphorus load of new development projects shall ~~not exceed 0.41 pounds per acre per year~~ comply with the water quality design criteria requirements in 9VAC25-875-580, as calculated pursuant to this section.
- (5) Development of prior developed lands:

- (d) In lieu of subsection (c), the total phosphorus load of a linear development project as defined in ~~9VAC25-870-10~~ 9VAC25-875-580 occurring on prior developed lands shall be reduced 20 percent below the predevelopment total phosphorus load.

- (7) Compliance with subsections (4) and (5) above shall be determined using the runoff reduction method and through the use of stormwater BMPs established in ~~9VAC25-870-65~~ 9VAC25-875-590 or found at the Virginia BMP Clearinghouse website, except as may be limited in accordance with policies established by the director of T&ES in accordance with subsection 13-104(C).
- (8) Compliance with subsections (4) and (5) may be achieved by the applicant in accordance with off-site compliance options in ~~9VAC25-870-69~~ 9VAC25-875-610 under the following circumstances:
 - (a) Less than five acres of land will be disturbed;
 - (b) The post-construction phosphorus control requirement is less than ten pounds per year; or
 - (c) At least 75 percent of the required phosphorus nutrient reductions are achieved on-site. If at least 75 percent of the require phosphorus nutrient reductions cannot be met on-site, and the operator can demonstrate to the satisfaction of the director of T&ES that (i) alternative site designs have been considered that may accommodate on-site best management practices, (ii) on-site best management practices have been considered in alternative site designs to the maximum extent practicable, (iii) appropriate on-site best management practices will be implemented, and (iv) full compliance with post-development nonpoint nutrient runoff compliance requirements cannot practicably be met on-site, then the

required phosphorus nutrient reductions may be achieved, in whole or in part, through the use of off-site compliance options.

- (10) Notwithstanding those exemptions granted under section 13-123, all such land-disturbing activities shall be subject to the design storm and hydrologic methods set out in ~~9VAC25-870-72~~ 9VAC25-875-620, linear development controls in ~~9VAC25-870-76~~ 9VAC25-875-640, and criteria associated with stormwater impoundment structures in ~~9VAC25-870-85~~ 9VAC25-875-650.

13-110 - Alexandria water quality improvement fund and alternative stormwater management equivalency options.

- (D) In determining whether to allow equivalent stormwater options, as well as the appropriate combination of on-site and off-site controls, the director of T&ES shall take into consideration the following:

- (7) Whether there are opportunities to implement the ~~Water Quality Management Supplement Chesapeake Bay Preservation Plan~~ to the city master plan and the city's ~~Virginia Stormwater Management Permit (VSMP)~~ Virginia Erosion and Stormwater Management Permit (VESMP) for its municipally owned separate storm sewer system discharges as issued by the Department of Environmental Quality; and

- (9) Single-unit residential development projects that are exempt from the water quality requirements of section 13-123(A) are considered eligible to contribute to the Alexandria water quality improvement fund in section 13-110(A)(2) to meet the Alexandria water quality volume default requirement in section 13-107(E)(3) with no further consideration of items (1) through (8) above. For purposes of this section “single unit residential development” means a “single-family detached residential structure” as used in § 62.1-44.15:34 C.3.

13-113 - Stormwater pollution prevention plan.

- (A) The stormwater pollution prevention plan (SWPPP) shall include the content specified in ~~9VAC25-870-54~~ 9VAC25-875-500, which includes but is not limited to, an approved

erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL. The SWPPP must also comply with the requirements and general information set forth in 9VAC25-880-70 Section II of the general VPDES permit for discharges of stormwater from construction activities (construction general permit).

13-116 - Pollution prevention plan.

- (A) The pollution prevention plan is required by ~~9VAC25-870-56~~ 9VAC25-875-500 and shall be developed, implemented, and updated as necessary, and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

13-119 - Exceptions.

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

- (E) Under no circumstances shall the city allow the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse website, or as applicable for projects subject to ~~9VAC25-870 Part II.C~~ 9VAC25-875-480. Notwithstanding, this shall not preclude the director of T&ES from placing reasonable limitations on a BMP on the Virginia Stormwater BMP Clearinghouse website.

- (F) Exceptions to the requirements for phosphorus reductions required under section 13-109(E)(4) and (5) will not be allowed unless off-site options available through ~~9VAC25-870-69~~ 9VAC25-875-610 have been considered and found not available.

13-124 - Time limits on applicability of design criteria and grandfathering.

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

- (1) Land-disturbing activities that obtain an initial state permit or commence land disturbance prior to July 1, 2014 shall be conducted in accordance with the technical criteria in ~~9VAC 25-870-93 through 9VAC25-870-99~~ 9VAC25-875-670 et seq. Such projects shall remain subject to these technical criteria for two additional state construction general permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

- (B) Grandfathering provisions established in ~~9VAC25-870-48~~ 9VAC25-875-490 shall apply to this article as applicable. Any land-disturbing activity shall be considered grandfathered by the ~~VSMMP~~ VESMP authority and shall be subject to the technical criteria of ~~9VAC25-870-93 through 9VAC25-870-99~~ Article 4 (9VAC25-875-670 et seq) of Part V of the Regulations, provided:

- (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in ~~9VAC25-870-10~~ 9VAC25-875-670, (iii) will comply with the technical criteria of ~~9VAC25-870-93 through 99~~ 9VAC25-875-670 (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;

- (C) Locality, state and federal projects shall be considered grandfathered and shall be subject to the technical criteria in ~~9VAC25-870-93 through 9VAC25-870-99~~ 9VAC25-875-490 provided:

- (D) Land-disturbing activities grandfathered under subsections (A) and (B) of this section shall remain subject to ~~9VAC25-870-93 through 99~~ Article 4 of Part V of the Regulations, 9VAC25-875-670 et seq. technical criteria for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

(E) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of ~~9VAC25-870-93 through 99~~ Article 4 of Part V of the Regulations, 9VAC25-875-670.

13-126 - Penalties.

(A) Under the authority of ~~9VAC25-870-116~~ 9VAC25-875-150 the director of T&ES shall have the following authority to enforce provisions of this Article XIII required or authorized under Section 62.1-44.15:24 et seq. of the Code of Virginia (the ~~Virginia Stormwater Management Act~~ Virginia Erosion and Stormwater Management Act) and its attendant regulations:

- (1) If the director determines that there is a failure to comply with the ~~VSMP~~ VESMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.

- (xi) Discharges not in compliance with the requirements of ~~4FAC50-60-1170~~ 9VAC25-880-70 of the general permit.