

May 13, 2014

County of Greene, Virginia

THE GREENE COUNTY BOARD OF SUPERVISORS MET ON TUESDAY, MAY 13, 2014,
BEGINNING AT 5:30 P.M. IN THE COUNTY MEETING ROOM.

Present were: Jim Frydl, Chairman
 David Cox, Vice Chairman
 Eddie Deane, Member
 Davis Lamb, Member
 Bill Martin, Member
 John C. Barkley, County Administrator
 Ray Clarke, County Attorney
 Patti Vogt, Deputy Clerk

RE: EXECUTIVE SESSION

Upon motion by Davis Lamb and unanimous vote, the Board entered into Executive Session to discuss legal and personnel matters pursuant to Section 2.2-3711 Subsection (a, 1-7) of the Code of Virginia.

1) APPOINTMENTS

Virginia Code References

2.2-3711 A.1: Appointment of specific public officers, appointees, or employees of public body.

2) CONTRACT

Virginia Code References

2.2-3711 A.6: Discussion or consideration of investment of public funds where competition or bargaining is involved.

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

Upon motion by Davis Lamb and unanimous vote, the Board returned to Open Session.

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

By unanimous vote, all members certified that only public business matters lawfully exempted from the Open Meeting requirement and only such matters as identified by the motion to enter into Executive Session including personnel, administration were discussed.

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

RE: PUBLIC MEETING

The Chairman opened the meeting with the Pledge of Allegiance followed by a moment of silence.

RE: PUBLIC HEARING – AMEND GREENE COUNTY CODE, ARTICLE III – EROSION AND SEDIMENT CONTROL, AND ARTICLE IV – STORMWATER MANAGEMENT ORDINANCE

Mr. Bart Svoboda, Zoning Administrator, and Mr. Dan Ratzlaff, Erosion and Sediment Control Administrator, were present.

Effective July 1, 2013, DEQ is the lead agency for developing and implementing statewide nonpoint source pollution control programs to protect the Commonwealth's water quality and quantity. Nonpoint source pollution is water pollution caused by stormwater runoff that is not confined to a single source, such as a wastewater treatment plant or industrial discharge pipe. One of the main ways of controlling nonpoint source pollution is through stormwater management, which includes erosion and sediment control.

Stormwater runoff is water flowing overland into surface waters or water that is channeled into natural or constructed conveyance systems during and after precipitation. Unmanaged stormwater can cause erosion and flooding. It can also carry excess nutrients, sediment and other contaminants into our waters. The Stormwater Act and VSMP permit regulations provide DEQ the ability to manage the quantity and quality of stormwater runoff on construction sites as well as on a regional or watershed basis.

The floor was opened and closed with no public comments.

Upon motion by David Cox and unanimous vote, the Board approved the Erosion and Sediment Control Ordinance (Article III) of the Greene County Code as presented. (See Attachment "A")

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

Upon motion by David Cox and unanimous vote, the Board approved the Stormwater Management Ordinance (Article IV) of the Greene County Code as presented. (See Attachment "B")

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

RE: VELOCITEL, INC./JOHN AND BARBARA HAYES – REQUEST SPECIAL USE PERMIT FOR TELECOMMUNICATIONS TOWER (SUP#13-006)

Mr. Preston Lloyd, Attorney for applicant, said there is an ongoing discussion with Monticello Media and they are optimistic an agreement can be reached. The site does present a unique construction challenge. The feasibility of making the tower work under the existing Special Use Permit for that site is also being reviewed. If an agreement can be reached and the project is feasible, then the Zoning Administrator would issue a zoning determination letter that the existing Special Use Permit can be used. No additional action would be required by the Board of Supervisors.

However, if the Monticello Media site does not work out, then the applicant would continue to pursue the existing application. Mr. Lloyd noted the Board of Supervisors held the public hearing on this application on April 8, 2014. The applicant is requesting a deferral to July 22.

Upon motion by Davis Lamb and unanimous vote, the Board deferred this item to the July 22 meeting as requested by the applicant.

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

RE: SKYLINE CAP

Ms. Brandi Day, Program Development Manager for Skyline CAP, briefly reviewed the Community Needs Assessment recently completed.

Skyline CAP is a community action agency promoting self-sufficiency through education and housing stability programs. A needs assessment is conducted annually to consider services in relation to local identified needs.

Results of the survey include the following needs:

- Full-time employment opportunities and services to aid residents in accessing employment such as transportation and childcare.
- Promotion of education primarily through early childhood education and services to help high school students identify a path towards higher education.
- Safe, affordable housing for renters and homeowners, including education about how to maintain that housing to create a stable home environment.

- Financial empowerment for low-income individuals to help them establish and achieve goals to improve their standard of living.

Skyline CAP continues to address: education, housing stability and financial empowerment. They also provide a local approach to meeting community needs and are expanding outreach to impact more clients and benefit the community.

Emergency financial assistance services were discontinued in 2013 to better meet the mission of promoting self-sufficiency. Skyline CAP continues to expand its inventory of affordable rental units to meet ongoing need in Greene County.

The Board thanked Ms. Day for attending the meeting.

RE: ACTION ON COUNTY BUDGET FOR FY 14-15

Mr. John Barkley, County Administrator, made a few brief comments regarding the budget noting there is no tax increase.

Mr. Frydl suggested the Board consider a policy to allow the Schools to retain their unexpended funds at the end of the fiscal year. Such funds would be put in a capital project fund specifically for the schools.

Upon motion by David Cox and unanimous vote, the Board adopted the resolution approving the FY 2014-15 budget. (See Attachment "C")

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

RE: SMALL BUSINESS INVESTMENT GRANTS

Alan Yost, Director of Economic Development, reviewed the proposed program for small business investment grants. The County recognizes the value of small businesses and the role they play in the County's long term prosperity, meeting needs of citizens, and maintaining our rural yet progressive community. Greene County seeks to support small businesses to locate, expand, and become an integral part of our community.

Grants would be awarded after verification of certain criteria. Grants offered would include new job training, real property investment, and machine/tools investment.

Upon motion by David Cox and unanimous vote, the Board approved a one year pilot program for Small Business Investment Grants. (See Attachment "D")

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

RE: APPOINTMENT TO PRISONER RE-ENTRY COUNCIL

Mr. Frydl said this is a new program designed to assist individuals transitioning from prison to being productive members of the community.

It was the consensus of the Board that Mr. Deane will serve on this council.

RE: SCHOOLS UPDATE

Mrs. Andrea Whitmarsh, School Superintendent, was present to give brief update on recent events at schools involving bomb threats. There have been a total of 14 bomb threats in buildings this year. A public meeting was held last night at WMHS. Sheriff Smith, Commonwealth Attorney Ron Morris, and Mrs. Whitmarsh lead the meeting and heard parents share their frustrations and concerns.

Mrs. Whitmarsh outlined steps being taken to monitor the situation and said she would be happy to hear any suggestions.

Mr. Deane questioned why these acts cannot be considered terrorism. Mr. Martin asked if authorities have considered offering a reward for information and having the FBI talk with students.

Sheriff Smith said a representative of the FBI contacted him and once he explained what was being done, he was told the FBI could not do any different. The Sheriff will contact the FBI if their assistance is needed.

Mr. Frydl said he has heard from citizens who want the Board of Supervisors to formally ask the Sheriff to request additional outside help. The threats are tying up personnel that could be needed elsewhere. The County is a small community with limited resources and this is beyond our experience.

Sheriff Smith said, while he couldn't divulge details of the investigation, he could say that there's nothing anyone else could do because of the way the threats are being made. Deputies are on the road while all this is going on and it hasn't been a problem yet.

Mr. Lamb asked if a child psychologist has been consulted. Mrs. Whitmarsh noted the school has psychologists on staff.

RE: MATTERS FROM THE PUBLIC

Brian Morris – Adjoining property owner of Monticello Media Site – Mr. Morris said he does not agree that AT&T can locate on that site without a new Special Use Permit and gave the Board copies of the existing permit and information for review. He feels they will need to go through the entire process again. Mr. Morris felt the Board pushed AT&T and Monticello Media to work something out in order to keep from having to vote on the current application.

David Holtzman – Land Use Field Officer for Piedmont Environmental Council – Mr. Holtzman said he is very interested in pedestrian infrastructure and expressed concern about neighborhoods not having sidewalks. New developments are still getting approved without pedestrian infrastructure. He referred to Section 19-5-13 of the Zoning Ordinance where sidewalks are both required and optional, to protect the public health, safety and welfare of the public. Mr. Holtzman suggested the County consider amending the ordinance to require sidewalks.

Michael Avery – resident of Four Seasons – Thanks for work on Route 33 to improve safety at intersection.

Frank Flaschenriem – Spoke regarding bomb threats at schools. He felt everyone would agree that this situation is a complex, complicated issue, the safety of our children is the most important thing and we should not lose sight of the academic integrity of our children. He has placed his sixth grader in a private school because of academic rigor concerns. He has another child in the high school and the threats are creating a huge disruption in the education of students. Authorities say it’s under control and handled but he wants to hear that everything that can be done is being done including contacting other localities who have experience with this type situation. He suggested bringing in the FBI to speak to the children. Just to hear interest in other ideas would be helpful.

Roy Dye – STAR Director – Phase I project is complete. Phase 2, which would extend sidewalks on either end of Town, has been recommended for approval. Estimated cost of Phase 2 is \$500,000 and the grant would cover 80%. The \$90,000 match will have to be raised through pledges. The Town will be the project sponsor and hopes the County will support the project to help reach the match requirement.

Kenneth Collier – Suggested student cell phones be prohibited at the schools. Mr. Collier spoke on the Small Business Investment grant noting he had a small business in Greene County for 31 years but was put out of business. He also said he has a stormwater management runoff permit that costs him every year. Mr. Collier said he has complained about pollution in the County and provided pictures to County staff. He said he has notice some cleanup but more needs to be done.

RE: CONSENT AGENDA

Mr. Lamb commented that the local match for the grant was not budgeted and will have to come from the reserve.

Upon motion by David Cox and unanimous vote, the Board approved the following items on the consent agenda:

- Minutes of April 22, 2014 meeting.
- Resolution to accept and appropriate \$72,795 in grant funds from the Virginia Department of Emergency Management for the generator project. The local required match of \$24,265 was approved by the Board on August 27, 2013. (See Attachment “E”)

Recorded vote:	Jim Frydl	-	Yes
	David Cox	-	Yes
	Eddie Deane	-	Yes
	Davis Lamb	-	Yes
	Bill Martin	-	Yes

Motion carried.

RE: OTHER MATTERS FROM BOARD MEMBERS

Mr. Martin said the Town Tastings event on May 10 was wonderful.

Mr. Martin suggested the Board consider holding a public forum to discuss the vision for Greene County. It was the consensus of the Board to have staff schedule a meeting.

Mr. Frydl said last week was Teacher Recognition Week. Ms. Beth Laine was named Teacher of the Year and Ms. Debbie Sacre was named Support Staff of the Year.

Board of Supervisors
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RE: CONTINUED MEETING

The meeting ended at 9:26 p.m. The next scheduled meeting of the Board will be on Tuesday, May 27, 2014 in the County Meeting Room.



Jim Frydl, Chairman
Greene County Board of Supervisors

ADOPTED BY THE COUNTY OF GREENE, VIRGINIA BOARD OF SUPERVISORS AUGUST 8, 2000,
THIS ARTICLE IS EFFECTIVE AUGUST 9, 2000, AND SUPERSEDES ANY AND ALL PREVIOUS VERSIONS OF
CHAPTER 38, ARTICLE III OF THE CODE OF THE COUNTY OF GREENE, VIRGINIA
REVISED ON JANUARY 9, 2007 AND OCTOBER 28, 2008

Revised on May 13, 2014

ARTICLE III. EROSION & SEDIMENT CONTROL

Sec. 38-71. Title; Purpose; Authority.

- A. This article shall be known as the "Erosion & Sediment Control Ordinance of the County of Greene, Virginia." The purpose of this article is to conserve the land, water, air and other natural resources of the County of Greene, Virginia by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced.
- B. This article is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4, known as the Virginia Erosion and Sediment Control Law.

Sec. 38-72. Definitions.

The following definitions are as used in the ordinance, unless the context clearly indicates otherwise. In addition, items not defined herein are defined in Section 62.1-44.15:51 of the Virginia Erosion and Sediment Control Law, and 9VAC25-840-10 of the Virginia Administrative Code.

"Act" means the Erosion and Sediment Control Law, Article 2.4 of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Adequate Channel" means a watercourse that will convey the designated frequency storm event without overtopping its banks or causing erosive damage to the bed, banks and overbank sections of the same.

"Agreement in lieu of a plan" means a contract between the VESCP authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence; this contract may be executed by the VESCP authority in lieu of an Erosion and Sediment Control plan.

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

"Board" means the Virginia State Water Control Board.

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

"Certified Inspector" means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of project inspection or (ii) is enrolled in the Board's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified Plan Reviewer" means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of plan review, (ii) is enrolled in the Board's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Sec. 54.1-400 et seq.) of Chapter 4 of Title 54.1.

"Certified Program Administrator" means an employee or agent of a program authority who (i) holds a certificate of competence from the Board in the area of program administration or (ii) is enrolled in the Board's training program for program administration and successfully completes such program within one year after enrollment.

"Channel" means a natural stream or manmade waterway.

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

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

"Conservation Plan," "Erosion & Sediment Control and/or Stormwater Management Plan" or "Plan" means a document containing material for the conservation of soil and water resources of a unit or group of units of land, and how existing runoff characteristics will be maintained by a land development project. The plan shall contain all major conservation and management decisions to assure that the entire unit or units of land will be so treated to achieve the conservation and management objectives.

"County" means the County of Greene, Virginia.

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

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

"Department" means the Department of Environmental Quality.

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

"Director" means the director of the Department.

"District" or "Soil and Water Conservation District" refers to the Culpeper Soil and Water Conservation District within which lies the County of Greene, Virginia.

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

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

"Energy Dissipator" means a nonerodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

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

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

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

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

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

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

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

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

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- (2) Individual service connections;
- (3) Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard-surfaced;
- (4) Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- (5) Surface or deep mining;
- (6) Exploration or drilling for oil and gas including the well site, roads, feeder lines, and off-site disposal areas;
- (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Article 2, (Sec. 10.1-604 et seq.) of Chapter 6, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (Sec. 10.1-1100 et seq.) of this title or is converted to bona fide agricultural or improved pasture use as described in subsection B of Section 10.1-1163;
- (8) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- (9) Disturbed land areas of less than 10,000 square feet in size;
- (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
- (11) Emergency work to protect life, limb or property, and emergency repairs; provided that if the land-disturbing activity would normally have required an approved erosion and sediment control plan, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the plan-approving authority.

"Land Disturbance Permit" means a permit issued by the County of Greene, Virginia for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any purpose set forth herein.

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

"Local erosion and sediment control and/or stormwater management program" or "local control program" means an outline of the various methods employed by the County of Greene, Virginia to regulate land-disturbing activities and thereby minimize harmful runoff, erosion and sedimentation in compliance with the state program and may include such items as local ordinances, policies and guidelines, technical materials, inspection, enforcement, and evaluation.

"Locality" means a county, city or town.

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

"Natural stream" means nontidal waterways that are part of the natural topography. They usually maintain a continuous or seasonal flow during the year and are characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to Natural forces.

"Nonpoint source pollution" means pollution whose sources cannot be pinpointed, but which is rather carried from the land surface in a diffuse manner by stormwater runoff.

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

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

"Permittee" means the person to whom the permit authorizing land-disturbing activities is issued or the person who certifies that the approved plan will be followed.

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

"Plan-approving authority" means the Program Administrator, who is the person responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

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

"Pre-development" means conditions at the time the erosion and sediment control plan is submitted to the VESCP authority for review. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time the erosion and sediment control plan for the initial phase is submitted for approval shall establish pre-development conditions.

"Program administrator" means the person or persons responsible for administering and enforcing the erosion and sediment control program of a VESCP authority.

"Program authority" means the County of Greene, Virginia which has adopted a soil erosion and sediment control and stormwater management program approved by the Board.

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

"Responsible Land Disturber (RLD)" means an individual from the project or development team to include the owner, applicant, permittee, designer, superintendent, project manager, or contractor, who will be in charge of and responsible for carrying out a land-disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

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

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

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

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

"Shore erosion control project" means an erosion control project approved by local wetlands boards, the Virginia Marine Resources Commission, the department, or the United States Army Corps of engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in Title 28.2 of the Code of Virginia.

"Single-family residence" means a noncommercial dwelling that is occupied exclusively by one family.

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

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

"State Erosion and Sediment Control Program" or "State Program" means the program administered by the Virginia Water Control Board pursuant to the State Code including regulations designed to minimize erosion and sedimentation.

"State Waters" means all waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdictions.

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

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

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

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

"Town" means any incorporated town.

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

"Twenty-five-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 25 years. It may also be expressed as exceedance probability with a 4.0% chance of being equaled or exceeded in any given year.

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

"Virginia Erosion and Sediment Control Program (VESCP)" means a program approved by the board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical material, and requirements for plan review, inspection, enforcement where authorized in this article, and evaluation consistent with the requirements of the Act and this chapter.

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

"Watershed" means a defined land area drained by a river or stream or system of connecting rivers or streams, such that all surface water within the area flows through a single outlet.

"Water Quality Volume" means the volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

Sec. 38-73. Local Erosion & Sediment Control Program.

- A. Pursuant to Section 62.1-44.15:54 of the Code of Virginia, the County of Greene, Virginia hereby adopts, as an integral part of this article, the regulations and guidelines of the Virginia Department of Environmental Quality for the management of soil erosion and sedimentation, as modified herein. Said regulations and guidelines are included in but not limited to the Virginia Erosion and Sediment Control Regulations, the Virginia Erosion and Sediment Control Handbook and this article, as amended from time to time. The County of Greene VESCP shall work in conjunction with its VSMP as provided in the County of Greene Stormwater Management Ordinance to satisfy state required laws for the control of erosion and sedimentation, and for stormwater management. Both programs while separate, work side by side in protecting downstream properties and waterbodies from erosion, sedimentation, and pollution.
- B. Before adopting or revising regulations, the County of Greene, Virginia shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the County of Greene, Virginia is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the County of Greene, Virginia proposes or revises regulations that are more stringent than the state program.

In addition, in accordance with Section 62.1-44.15:52 of the Code of Virginia, stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

- C. Pursuant to Section 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The Erosion & Sediment Control Program (VESCP) of the County of Greene, Virginia shall contain a certified Program Administrator, a certified plan reviewer, and a certified inspector, who may be the same person.
- D. The County of Greene, Virginia hereby designates the Program Administrator as the plan-approving authority. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the Program Administrator.
- E. This article shall not apply to any town(s) within the County of Greene, Virginia, unless such town(s) specifically indicate the intention to be covered by this article.
- F. The County of Greene VESCP will undergo program review by the department to insure county compliance with state law. The department shall periodically conduct a comprehensive review and evaluation of local programs. The department will coordinate the review with its other program reviews for the same entity to avoid redundancy. The review and evaluation of a local program shall consist of the following:
- (i) consultation with the local program administrator or designee or designees;
 - (ii) review of the local ordinance and other applicable documents;
 - (iii) review of plans approved by the program;
 - (iv) inspection of regulated activities; and
 - (v) review of enforcement actions where authorized to do so. The department is also authorized to conduct a partial program compliance review.
1. Local programs shall be reviewed and evaluated for effectiveness in carrying out the Act and this chapter using the criteria in this section.
 2. If deficiencies noted in the review will cause the erosion and sediment control program to be inconsistent with the state program and this chapter, the board shall provide the VESCP authority with a copy of its decision that specifies the deficiencies, action needed to be taken, and an approved corrective action plan and schedule required to attain the minimum standard of effectiveness. If the VESCP authority has not implemented the necessary compliance actions identified by the board within the corrective action schedule, or such additional period as is granted to complete the implementation of the corrective action, then the board shall have the authority to (i) issue a special order to any VESCP imposing a civil penalty set out in § 62.1-44.15:54 F of the Act or (ii) revoke its approval of the VESCP. The Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) shall govern the review

activities and proceedings of the board and the judicial review thereof. In lieu of issuing a special order or revoking the program, the board is authorized to take legal action against a VESCP to ensure compliance.

3. Review and evaluation of VESCPs shall be conducted according to a schedule adopted by the department.

Sec. 38-74. Regulated Land-Disturbing Activities; Submission and Approval of Plans; Contents of Plans.

- A. Except as provided herein, no person may engage in any land-disturbing activity until he has submitted to the Program Administrator for the County of Greene, Virginia an erosion & sediment control plan for the land-disturbing activity and such plan has been approved, a bond posted and a permit issued by the plan-approving authority.
- B. Exempt Activities:
Unless indicated as an exempt activity pursuant to Section 38-72 of this Ordinance, any land-disturbing activity that disturbs 10,000 square feet and greater must first obtain a Land Disturbance Permit from the county. The program administrator shall determine the validity of a claim of exempt status by a property owner who disturbs 10,000 square feet or more. As soon as a nonexempt status is determined, the requirements of the Act shall be immediately enforced.
- C. State agency and federal entity projects: A state agency shall not undertake a project involving a land-disturbing activity unless (i) the state agency has submitted annual standards and specifications for its conduct of land-disturbing activities that have been reviewed and approved by the Department as being consistent with this article and associated regulations or (ii) the state agency has submitted an erosion and sediment control plan for the project that has been reviewed and approved by the Department. When a federal entity submits an erosion and sediment control plan for a project, land disturbance shall not commence until the Department has reviewed and approved the plan.
- D. Permit Duration:
Land Disturbing Permits issued for residential subdivisions, commercial, industrial, and all other non-single family residence construction activities, are valid for 18 (eighteen) months. Permitted projects that are not considered complete by that time by the Program Administrator must renew the Land Disturbance Permit for another 6 (six) months, and repeat renewals until the project is considered complete, and any bond monies posted released. Permits issued for single family residential construction projects are valid for 36 (thirty-six) months. These projects must also obtain 6-month renewals until a certificate of occupancy has been issued, or until the Program Administrator determines that the project is complete. Should a land-disturbing activity not begin during the 180-day period following plan approval or cease for more than 180 days, the VESCP authority may evaluate the existing approved erosion and sediment control plan to determine whether the plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. If the VESCP authority finds the previously filed plan to be inadequate, a modified plan shall be submitted and approved prior to the resumption of land-disturbing activity. based on the establishment of permanent vegetative cover on the entire parcel. Renewal fees shall be collected for any and all amounts of time in arrears. All fees are specified on the County of Greene Fee Schedule.
- E. Off-site locations:
Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the VESCP authority may either:
 1. Consider the off-site activity as being part of the proposed land-disturbing activity; or
 2. If the off-site activity is already covered by an approved erosion and sediment control plan, the VESCP authority may require the applicant to provide proof of the approval and to certify that the plan will be implemented in accordance with a the Act and this chapter.
- F. "Agreement In Lieu of a Plan":
Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu plan" may be substituted for an erosion & sediment control plan if executed by the plan-approving authority. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the Act and this chapter if the total land-disturbing activity in the

development is equal to or greater than 10,000 square feet.

- G. The plan-approving authority shall review conservation plans submitted to it and grant written approval within 45 days of the receipt of the plan if it determines that the plan meets the requirements of the Board's regulations and if the person responsible for carrying out the plan certifies that he will properly perform the conservation measures included in the plan and will conform to the provisions of this article. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, to the program authority, as provided by Section 62.1-44.14:52, of the Virginia Erosion and Sediment Control Law, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance.
- H. Where land-disturbing activities involve lands under the jurisdiction of more than one local control program, a plan, at the option of the applicant, may be submitted to the Board for review and approval rather than to each jurisdiction concerned.
- I. The standards and specifications contained within the Virginia Erosion and Sediment Control Handbook are to be used by the applicant, except as noted herein, when making a submittal under the provisions of this ordinance and in the preparation of a plan. The plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the State regulations shall take precedence. The following nineteen "Minimum Standards" are required of all permitted land-disturbing activities:

Minimum Standards:

A VESCP must be consistent with the following criteria, techniques and methods:

1. Permanent or temporary soil stabilization shall be applied to denuded areas within seven days after final grade is reached on any portion of the site. Temporary soil stabilization shall be applied within seven days to denuded areas that may not be at final grade but will remain dormant for longer than 14 days. Permanent stabilization shall be applied to areas that are to be left dormant for more than one year.
2. During construction of the project, soil stock piles and borrow areas shall be stabilized or protected with sediment trapping measures. The applicant is responsible for the temporary protection and permanent stabilization of all soil stockpiles on site as well as borrow areas and soil intentionally transported from the project site.
3. A permanent vegetative cover shall be established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform, mature enough to survive and will inhibit erosion.
4. Sediment basins and traps, perimeter dikes, sediment barriers and other measures intended to trap sediment shall be constructed as a first step in any land-disturbing activity and shall be made functional before upslope land disturbance takes place.
5. Stabilization measures shall be applied to earthen structures such as dams, dikes and diversions immediately after installation.
6. Sediment traps and sediment basins shall be designed and constructed based upon the total drainage area to be served by the trap or basin.
 - a. The minimum storage capacity of a sediment trap shall be 134 cubic yards per acre of drainage area and the trap shall only control drainage areas less than three acres.
 - b. Surface runoff from disturbed areas that is comprised of flow from drainage areas greater than or equal to three acres shall be controlled by a sediment basin. The minimum storage capacity of a sediment basin shall be 134 cubic yards per acre of drainage area. The outfall system shall, at a minimum, maintain the structural integrity of the basin during a 25-year storm of 24-hour duration. Runoff coefficients used in runoff calculations shall correspond to a bare earth condition or those conditions expected to exist while the sediment basin is utilized.
7. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. Slopes that are found to be eroding excessively within one year of permanent stabilization shall be provided with additional slope stabilizing measures until the problem is corrected.
8. Concentrated runoff shall not flow down cut or fill slopes unless contained within an adequate temporary or permanent channel, flume or slope drain structure.
9. Whenever water seeps from a slope face, adequate drainage or other protection shall be provided.
10. All storm sewer inlets that are made operable during construction shall be protected so that sediment-laden water cannot enter the conveyance system without first being filtered or otherwise treated to remove sediment.
11. Before newly constructed stormwater conveyance channels or pipes are made operational, adequate outlet protection and any required temporary or permanent channel lining shall be installed in both the

- conveyance channel and receiving channel.
12. When work in a live watercourse is performed, precautions shall be taken to minimize encroachment, control sediment transport and stabilize the work area to the greatest extent possible during construction. Nonerodible material shall be used for the construction of causeways and cofferdams. Earthen fill may be used for these structures if armored by nonerodible cover materials.
 13. When a live watercourse must be crossed by construction vehicles more than twice in any six-month period, a temporary vehicular stream crossing constructed of nonerodible material shall be provided.
 14. All applicable federal, state and local requirements pertaining to working in or crossing live watercourses shall be met.
 15. The bed and banks of a watercourse shall be stabilized immediately after work in the watercourse is completed.
 16. Underground utility lines shall be installed in accordance with the following standards in addition to other applicable criteria:
 - a. No more than 500 linear feet of trench may be opened at one time.
 - b. Excavated material shall be placed on the uphill side of trenches.
 - c. Effluent from dewatering operations shall be filtered or passed through an approved sediment trapping device, or both, and discharged in a manner that does not adversely affect flowing streams or off-site property.
 - d. Material used for backfilling trenches shall be properly compacted in order to minimize erosion and promote stabilization.
 - e. Restabilization shall be accomplished in accordance with this chapter.
 - f. Applicable safety requirements shall be complied with.
 17. Where construction vehicle access routes intersect paved or public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto the paved surface. Where sediment is transported onto a paved or public road surface, the road surface shall be cleaned thoroughly at the end of each day. Sediment shall be removed from the roads by shoveling or sweeping and transported to a sediment control disposal area. Street washing shall be allowed only after sediment is removed in this manner. This provision shall apply to individual development lots as well as to larger land-disturbing activities.
 18. All temporary erosion and sediment control measures shall be removed within 30 days after final site stabilization or after the temporary measures are no longer needed, unless otherwise authorized by the VESCP authority. Trapped sediment and the disturbed soil areas resulting from the disposition of temporary measures shall be permanently stabilized to prevent further erosion and sedimentation.
 19. Properties and waterways downstream from development sites shall be protected from sediment deposition, erosion and damage due to increases in volume, velocity and peak flow rate of stormwater runoff for the stated frequency storm of 24-hour duration in accordance with the following standards and criteria. Stream restoration and relocation projects that incorporate natural channel design concepts are not man-made channels and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels:
 - a. Concentrated stormwater runoff leaving a development site shall be discharged directly into an adequate natural or man-made receiving channel, pipe or storm sewer system. For those sites where runoff is discharged into a pipe or pipe system, downstream stability analyses at the outfall of the pipe or pipe system shall be performed.
 - b. Adequacy of all channels and pipes shall be verified in the following manner:
 - (1) The applicant shall demonstrate that the total drainage area to the point of analysis within the channel is one hundred times greater than the contributing drainage area of the project in question; or
 - (2) (a) Natural channels shall be analyzed by the use of a two-year storm to verify that stormwater will not overtop channel banks nor cause erosion of channel bed or banks.
 - (b) All previously constructed man-made channels shall be analyzed by the use of a ten-year storm to verify that stormwater will not overtop its banks and by the use of a two-year storm to demonstrate that stormwater will not cause erosion of channel bed or banks; and
 - (c) Pipes and storm sewer systems shall be analyzed by the use of a ten-year storm to verify that stormwater will be contained within the pipe or system.
 - c. If existing natural receiving channels or previously constructed man-made channels or pipes are not adequate, the applicant shall:
 - (1) Improve the channels to a condition where a ten-year storm will not overtop the banks and a two-year storm will not cause erosion to the channel, the bed, or the banks; or
 - (2) Improve the pipe or pipe system to a condition where the ten-year storm is contained within the appurtenances;

- (3) Develop a site design that will not cause the pre-development peak runoff rate from a two-year storm to increase when runoff outfalls into a natural channel or will not cause the pre-development peak runoff rate from a ten-year storm to increase when runoff outfalls into a man-made channel; or
 - (4) Provide a combination of channel improvement, stormwater detention or other measures which is satisfactory to the VESCP authority to prevent downstream erosion.
 - d. The applicant shall provide evidence of permission to make the improvements.
 - e. All hydrologic analyses shall be based on the existing watershed characteristics and the ultimate development condition of the subject project.
 - f. If the applicant chooses an option that includes stormwater detention, he shall obtain approval from the VESCP of a plan for maintenance of the detention facilities. The plan shall set forth the maintenance requirements of the facility and the person responsible for performing the maintenance.
 - g. Outfall from a detention facility shall be discharged to a receiving channel, and energy dissipators shall be placed at the outfall of all detention facilities as necessary to provide a stabilized transition from the facility to the receiving channel.
 - h. All on-site channels must be verified to be adequate.
 - i. Increased volumes of sheet flows that may cause erosion or sedimentation on adjacent property shall be diverted to a stable outlet, adequate channel, pipe or pipe system, or to a detention facility.
 - j. In applying these stormwater management criteria, individual lots or parcels in a residential, commercial or industrial development shall not be considered to be separate development projects. Instead, the development, as a whole, shall be considered to be a single development project. Hydrologic parameters that reflect the ultimate development condition shall be used in all engineering calculations.
 - k. All measures used to protect properties and waterways shall be employed in a manner which minimizes impacts on the physical, chemical and biological integrity of rivers, streams and other waters of the state.
 - l. Any plan approved prior to July 1, 2014, that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to § 62.1-44.15:54 or 62.1-44.15:65 of the Act.
 - m. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements of § 62.1-44.15:52 A of the Act and this subsection shall be satisfied by compliance with water quantity requirements in the Stormwater Management Act (§ 62.1-44.15:24 et seq. of the Code of Virginia) and attendant regulations, unless such land-disturbing activities are in accordance with 9VAC25-870-48 of the Virginia Stormwater Management Program (VSMP) Regulations.
 - n. Compliance with the water quantity minimum standards set out in 9VAC25-870-66 of the Virginia Stormwater Management Program (VSMP) Regulations shall be deemed to satisfy the requirements of subdivision 19 of this subsection.
 - J. The plan shall be acted upon within 45 days from receipt thereof by either approving or disapproving said plan in writing. If disapproved, the plan-approving authority shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the applicant authorized to proceed with the proposed activity.
 - K. An approved plan may be changed by the plan-approving authority when:
 - 1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - 2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and amendments to the plan in accordance with this ordinance are agreed to by the plan-approving authority and the person responsible for carrying out the plan.

- L. Variances: The plan-approving authority may waive or modify any of the standards that are deemed to be too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:
 1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the plan-approving authority shall be documented in the plan.
 2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The plan-approving authority shall respond in writing either approving or disapproving such a request. If the plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- M. In order to prevent further erosion, the County of Greene, Virginia may require approval of a conservation plan for any land identified in the local program as an erosion impact area.
- N. When land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission and obtaining approval of an erosion & sediment control and stormwater management plan shall remain the responsibility of the owner.
- O. Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies or railroad companies shall file general erosion and sediment control specifications annually with the Board for review and written comments. The specifications shall apply to:
 1. Construction, installation and maintenance of electric, natural gas and telephone utility lines, and pipelines, and
 2. Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.
- P. The Board shall have sixty days in which to approve the utility company specifications. If no action is taken by the Board within sixty days, the specifications shall be deemed approved. Individual approval of separate projects within subdivisions 1 and 2 of paragraph J of this section is not necessary when approved specifications are followed. Projects not included in subdivisions 1 and 2 of paragraph J shall comply with the requirements of the appropriate local erosion and sediment control program. The Board shall have the authority to enforce approved specifications.
- Q. In accordance with the procedure set forth by Section 62.1-44.15:55 of the Code of Virginia, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the Board for review and approval consistent with guidelines established by the Board.
- R. State agency projects are exempt from the provisions of this ordinance except as provided for in Code of Virginia, Section 62.1-44.15:56.
- S. All final plans shall be sealed and signed by the design professional responsible for preparing the plans, and shall contain a signed owners' certification stating that all measures shown on the approved plan will be installed and maintained in accordance with this ordinance, prior to issuance of a land disturbing permit.

Sec. 38-75. Permits; Fees; Performance Surety; Etc.

- A. No person may engage in any land-disturbing activity until he has obtained a land-disturbing permit, unless the activity is specifically exempt from the provisions of this ordinance. The permit shall indicate an expiration date, and shall require renewal if the land-disturbing activity has not been completed and stabilized before that date. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of an individual holding a certificate of competence, as provided Section 62.1-44.15:52 who will be in charge of and responsible for carrying out the land-disturbing activity. However, the plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of an individual holding a certificate of competence, as provided

shall correct the violation and provide the name of an individual holding a certificate of competence, as provided by Section 62.1-44.15:52 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.

- B. No land-disturbing permit shall be issued until required fees have been paid, an erosion & sediment control plan has been approved, a preconstruction conference held with the Program Administrator or designee, and the required performance surety has been provided for the land disturbing activity. If the owner is required to obtain approval of a site plan or subdivision plat, the Program Administrator shall not approve an Erosion and Sediment Control Plan unless and until the site plan or subdivision plat is approved.
- C. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities may not issue any such permit unless the applicant submits with his application an approved erosion & sediment control plan and certification that the plan will be followed.
- D. Fees: administrative fees, as set by the Board of Supervisors, shall be paid to the County of Greene, Virginia with the first submission of the erosion & sediment control and stormwater management plan for review, and prior to the permit expiration date if renewal is required.
- E. Surety: All applicants for permits shall provide to the County of Greene, Virginia a performance bond, cash escrow, irrevocable letter of credit or other security acceptable to the Program Administrator, with an executed agreement stating that measures may be taken by the County of Greene, Virginia at the applicant's expense, should the applicant fail after proper notice and within the time specified, to initiate or maintain appropriate measures required of him as a result of his land-disturbing activity.
- F. The amount of the bond or other security for performance shall not exceed the total estimated cost to initiate and maintain all conservation and management measures, based on the cost of new construction in the locality, plus an allowance for administrative costs and inflation not to exceed twenty-five percent of the cost of the measures. Should it be necessary for the County of Greene, Virginia to install and/or maintain such measures, the County of Greene, Virginia may use all security funds available as needed, as well as collect from the permittee any costs in excess of the amount of the security available.
- G. Within sixty (60) days of adequate final stabilization as determined by the Program Administrator, in any project or section of a project such bond or other security, held for such project or section of a project, shall be either refunded to the applicant or terminated as appropriate for the surety document.
- H. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

Sec. 38.76 Monitoring; Reports; Inspections.

- A. All erosion and sediment control structures and systems shall be maintained, inspected and repaired as needed to insure continued performance of their intended function in accordance with section 62.1-44.15:58 of the Code of Virginia. A statement describing the maintenance responsibilities of the permittee shall be included in the approved erosion and sediment control plan. These responsibilities generally require on-site inspections by the permittee, or designee, and hold such parties accountable to the standards and specifications of good operating conditions pursuant to the Virginia Erosion and Sediment Control Regulations and Handbook. If required, the person responsible for carrying out the plan, or his agent, will keep records of inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures on the plan are effective, and shall submit copies of these records to the Program Administrator at his/her request.
- B. Periodic inspections are required on all projects by the VESCP authority. The VESCP authority shall either:
 - 1. Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or
 - 2. Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:
 - a. Approved by the board prior to implementation;
 - b. Established in writing;
 - c. Based on a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and
 - d. Documented by inspection records.

- C. The Program Administrator shall report to the department using an on-line reporting system, and at an interval to be determined by the department, a listing of each land-disturbing activity for which a plan has been approved under the Act of this chapter.
- D. If the Program Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by registered or certified mail to the address specified in the permit application or in the plan certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.
- E. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided by this ordinance.
- F. Upon determination of a violation of this ordinance, the Program Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order, served in the same manner as a notice to comply, requiring that all or part of the activities permitted on the site be stopped until the specified corrective measures have been performed and approved.
- G. Where the alleged violation is causing or is in imminent danger of causing harmful runoff, erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the permittee has failed to comply with such a notice to comply.
- H. The owner may appeal the issuance of an order to the Circuit Court of the County of Greene, Virginia.
- I. Any person violating or failing, neglecting or refusing to obey an order issued by the Program Administrator may be compelled in a proceeding instituted in the Circuit Court of the County of Greene, Virginia to obey same and to comply therewith by injunction, mandamus or other appropriate remedy. Upon completion and approval of corrective action, satisfying any penalties imposed and obtaining any required permits, the order shall be lifted immediately.
- J. Nothing in this section shall prevent the Program Administrator from taking any other action authorized by this ordinance.

Sec. 38-77 Penalties; Injunctions; Other Legal Actions.

- A. Any person who violates any provision of this ordinance shall, upon a finding of the District Court of the County of Greene, Virginia, be guilty of a Class I Misdemeanor and/or be assessed a civil penalty. The civil penalty for any one violation shall be \$100, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense.
- B. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$3,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000.
- C. The Program Administrator, or the owner or property which has sustained damage or which is in imminent danger of being damaged, may apply to the Circuit Court of the County of Greene, Virginia to enjoin a violation or a threatened violation of this ordinance, without the necessity of showing that an adequate remedy at law does not exist.
- D. However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

- E. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the County of Greene, Virginia.
- F. Any civil penalties assessed by a court shall be paid into the treasury of the County of Greene, Virginia, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
- G. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, the County of Greene, Virginia may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under this section.
- H. The Commonwealth's Attorney shall, upon request of the County of Greene, Virginia or the permit issuing authority, take legal action to enforce the provisions of this ordinance.
- I. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by runoff, erosion or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

Sec. 38.78 Appeals; Judicial Review.

- A. Any applicant who is aggrieved by the County of Greene, Virginia or its agent in disapproving plans submitted pursuant to this ordinance shall have the right to a review of such action by the Greene County Board of Supervisors provided an appeal is filed within 30 days from the date of the action. Any applicant who seeks an appeal hearing before the Board of Supervisors shall be heard at the next regularly scheduled Board of Supervisors public hearing, provided that the Board of Supervisors and other involved parties have at least 30 days prior notice.
- B. In reviewing the agent's actions, the Board of Supervisors shall consider evidence and opinions presented by the aggrieved applicant and agent, and may affirm, reverse or modify the action. The Board of Supervisor's decision shall be final, subject only to review by the Circuit Court of the County of Greene, Virginia.
- C. Final decisions of the County of Greene, Virginia under this ordinance shall be subject to review by the County of Greene, Virginia Circuit Court, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in land-disturbing activities.

END OF ARTICLE III

STORMWATER MANAGEMENT ORDINANCE



ADOPTED MAY 13, 2014

STORMWATER MANAGEMENT ORDINANCE

Revised 5-5-14

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STORMWATER MANAGEMENT ORDINANCE

Pursuant to Code § 62.1-44.15:27, of the State of Virginia, this ordinance is adopted by the County of Greene Board of Supervisors {DATE}, as part of an initiative to integrate the County of Greene stormwater management requirements with the County of Greene erosion and sediment control requirements into a unified stormwater program. The unified stormwater program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the County of Greene and those responsible for compliance with these programs. This ordinance is effective July 1, 2014, and supersedes any and all previous versions of Chapter 38, Article III of The Code of The County of Greene, Virginia.

Sec. 38-120 PURPOSE AND AUTHORITY (9VAC25-870-20, 9VAC25-870-40)

- (a) The purpose of this Ordinance is to ensure the general health, safety, and welfare of the citizens of the County of Greene and hereby declares that the specific purposes of this ordinance are to:
1. Protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced;
 2. Establish provisions for long term protection of stream banks and other aquatic resources including riparian buffers and other practices in order to inhibit the deterioration of state waters resulting from land disturbing activities;
 3. Promote Low-Impact Development (LID) techniques to protect groundwater resources;
 4. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable;
 5. Establish minimum design criteria for the protection of properties and aquatic resources, downstream from developments and land disturbing activities, from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of stormwater runoff;
 6. Establish provisions for the long-term operation and maintenance of approved stormwater management facilities and other permanent control measures, and to;
 7. Establish certain administrative procedures for the submission, review, approval, and disapproval of stormwater management plans, and the post-construction inspection of approved stormwater management facilities.

- (b) Any town lying within the County of Greene, once the county has adopted a VSMP, may decide, but shall not be required, to become subject to the county's VSMP pursuant to Section 62.1-44.15:27/B.
- (c) This Ordinance is adopted pursuant to Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

Sec. 38-121 DEFINITIONS

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in this Ordinance have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence.

"Administrator" means the VSMP authority including the County of Greene Erosion and Sediment Control Administrator, or their designee as responsible for administering the VSMP on behalf of the locality.

"Agreement In Lieu of a Stormwater Management Plan" means a contract between the VSMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VSMP for the construction of a single-family residence; such contract may be executed by the VSMP authority in lieu of a stormwater management plan.

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

"As-Built" means a professionally certified record drawing that shows an amended site plan specifying the location, dimensions, elevations, capacities and operational capabilities of public improvements, including water, sewer, road and drainage structures and stormwater management facilities as they have been constructed.

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

"Buffer" means an area of land at or near a tributary stream bank and, or wetland that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to the quality of state waters.

"Channel" means a natural or artificial waterway.

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

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

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

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

"Construction Record Drawing" means an As-Built drawing depicting final construction conditions of permanent stormwater management facilities.
(See "As-Built")

"County" means the County of Greene Board of Supervisors and the authorized officials, employees and agents acting on its behalf.

"Department" means the Department of Environmental Quality.

"Detention" means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

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

"Environmental Site Design" (ESD) means nonstructural techniques and better site planning to mimic natural hydrologic runoff characteristics and minimize the impact of land development on water resources.

"Environmental Impact Assessment" or "Natural Resource Assessment" or "Water Quality Impact Assessment" means a narrative description of the natural qualities and physical limitations of a site for the purposes of implementing low impact

development. The narrative is to identify the physical boundaries and properties of soils, water bodies, vegetation and topography of the site.

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

"General permit" means the state permit titled GENERAL VPDES PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (9VAC25-880-1 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area.

"Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Hotspots include but are not limited to industrial uses, gas stations, storage, handling and disposal facilities.

"Impervious cover" means a surface composed of any material that significantly impedes or prevents natural infiltration of water into soil. The term "percent impervious" refers to the area of impervious cover within the site divided by the area of the site multiplied by 100.

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

"Integrated Stormwater Management Practices" means on-lot BMPs and techniques used to manage stormwater runoff at the source, including but not limited to any combination of Environmental Site Design (ESD) techniques, Runoff Reduction (RR) practices and Pollutant Removal (PR) measures that are implemented on individual lots to prevent pollutant generation and mitigate increases in stormwater runoff.

"Intermittent stream" means a natural stream channel where water flows for part of the year and are depicted as a line of blue dashes and dots on the most recent United States Geological Survey 7.5 minute topographic quadrangle map.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in Section 62.1-44.15:34 of the Code of Virginia, and Section 38-122 of this Ordinance.

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

"Linear Development Project" means a land development project that is linear in nature such as, but not limited to: the construction of electric and telephone utility lines, and natural gas pipelines; construction of tracks, rights-of-way, bridges, communication

facilities and other related structures of a railroad company, and; highway construction projects.

“Low Impact Development (LID)” means an approach to site design and stormwater management that seeks to maintain the pre-development hydrology of a site (e.g., infiltration and ground water recharge; volume, rate, and frequency of stormwater discharges) through the use of environmental site design techniques and runoff reduction practices to create functionally equivalent hydrologic characteristics.

“Maintenance Agreement” or **“Stormwater Management Maintenance Agreement”** means a legally recorded document that acts as a property deed restriction, and which provides for long-term operation and maintenance of stormwater management facilities and applicable integrated stormwater management practices.

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

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

“Owner” means the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property; the legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

“Peak flow rate” means the maximum instantaneous flow from a prescribed storm at a particular location.

“Perennial streams” are streams which typically run year round and are depicted as a continuous blue line on the most recent U.S. Geological Survey 7.5 minute topographic quadrangle map (scale 1:24,000) except for streams within a development area or area of infill and redevelopment that have been piped or converted legally and intentionally into stormwater conveyance channels such that the stream does not resemble or maintain the characteristics of a natural stream channel, as determined by the program authority.

“Permit” or **“VSMP Authority Permit”** means an approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of state VSMP general permit coverage has been provided where applicable.

"Permittee" means the person to which the permit or state permit is issued.

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

"Point of discharge" means the conveyed location at which concentrated stormwater runoff is released.

"Pollutant Removal" (PR) means the change in the average concentration of a pollutant as runoff flows into and out of a control measure.

"Pollution Prevention Plan" (PPP) is a plan that identifies potential sources of pollutants that may be reasonable expected from the construction site and control measures that will minimize pollutants in stormwater discharges.

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

"Pre-development" means conditions that exist at the time that plans for the land development project are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted shall establish pre-development conditions.

"Recharge" means the replenishment of underground water reserves.

"Redevelopment project" means a land disturbing activity on previously developed land, where the development is adaptively reused, rehabilitated, restored, or renovated, and /or expanded.

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

"Retention" is the capture of runoff on-site so that it does not reach the drainage area outlet during a storm event. Instead, the water will be infiltrated, evaporated, absorbed by vegetation, or withdrawn for consumptive use.

"Runoff Reduction" (RR) means the total annual runoff volume reduced through canopy interception, soil infiltration, evaporation, transpiration, rainfall harvesting, engineered infiltration, or extended infiltration to maintain the pre-development runoff volume.

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

"State" means the Commonwealth of Virginia.

"State Board" means the Virginia Water Control Board.

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

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

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

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

"Stormwater Conveyance System" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land disturbing activity.

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

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

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

"Subdivision" means the same as defined in Section 2-2-40 through 2-2-40.2 of the County of Greene Subdivision Ordinance.

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

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

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

"Virginia Stormwater Management Program" or "VSMP" means a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations

"Virginia Stormwater Management Program Authority" or "VSMP Authority" means an authority approved by the Board after September 13, 2011, to operate a Virginia Stormwater Management Program or, the Department. An authority may include a locality; state entity, including the Department; federal entity; or, for linear projects subject to annual standards and specifications in accordance with subsection B of Section 62.1-44.15:31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to Section 15.2-5102.

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

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

“Wetlands” are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Sec. 38-122 STORMWATER PERMIT REQUIREMENT; EXEMPTIONS

All development within a common plan of development, all residential developments with disturbed areas equal to or greater than one acre, and all non-residential and mixed-use developments with disturbed areas equal to or greater than 10,000 square feet shall meet the requirements of this Ordinance and be required to submit application and obtain approval for a County of Greene VSMP Authority Permit, unless determined to be an exempt activity as noted in the following section:

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VSMP authority permit has been issued by the Administrator in accordance with the provisions of this Ordinance.
- (b) Notwithstanding any other provisions of this Ordinance, the following activities are exempt, unless otherwise required by federal law:
 - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
 - (2) Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the State Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
 - (3) Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures. (See Section 38-124 for more on Single Family residences.)
 - (4) Land disturbing activities that disturb less than 10,000 square feet of land and that are not part of a common plan of development or sale with one acre or greater of disturbance, unless an amendment to a previously developed parcel.
 - (5) Discharges to a sanitary sewer or a combined sewer system;
 - (6) Activities under a State or federal reclamation program to return an abandoned property to an agricultural or open land use;

- (7) Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this Subsection; and
- (8) Conducting land-disturbing activities in response to a public emergency where the related work requires immediate authorization to avoid imminent endangerment to human health or the environment. In such situations, the Administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of Subsection (a) is required within 30 days of commencing the land-disturbing activity.

Sec. 38-123 STORMWATER MANAGEMENT PROGRAM ESTABLISHED;

SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS

- (a) Pursuant to Section 62.1-44.15:27 of the Code of Virginia, The County of Greene hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in Section 38-120 of this Ordinance. The County of Greene Board of Supervisors hereby designates The County of Greene Erosion and Sediment Control Administrator as the Administrator of the County of Greene Virginia VSMP.
- (b) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator as prescribed herein:
 - (1) A permit application that includes evidence of state VSMP permit coverage where required;
 - (2) A Stormwater Pollution Prevention Plan (SWPPP) meeting the requirements of Section 38-125 of this ordinance and as set forth in Section 9VAC25-880-70, Section II of the general permit, which includes an approved erosion and sediment control plan that satisfies all requirements of the County of Greene Erosion and Sediment Control Ordinance, Chapter 38, Article III of the Code of the County of Greene, and a stormwater management plan that meets the requirements of Section 38-126 of this ordinance.
 - (3) A signed Operation and Maintenance Agreement, or Maintenance Agreement, or Stormwater Management Maintenance Agreement, by the owner of the property.
- (c) No VSMP authority permit shall be issued until evidence of state VSMP permit coverage is obtained.

- (d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 38-136, are received, and a reasonable performance bond required pursuant to Section 38-137, of this Ordinance has been submitted.
- (e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

Sec. 38-124 SINGLE FAMILY RESIDENTIAL CONSTRUCTION

Pursuant to Section 62.1-44.15:28/A/5e and 8, neither a state VSMP permit registration statement, nor a state portion of the permit application fee is required for “state VSMP permit coverage” for construction of single family residential construction projects. Applicants will qualify for state coverage by obtaining from the County of Greene an Agreement In Lieu of a Stormwater Management Plan. A County of Greene VSMP authority permit for construction of single family detached residences within, or outside of a common plan of development, with disturbance greater than 1acre, but less than 5 acres will be issued to applicants who complete the Agreement In Lieu of a Stormwater Management Plan

Sec. 38-125 STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS

- (a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the content specified by Section 9VAC25-870-54 and must also comply with the requirements and general information set forth in Section 9VAC25-880-70, Section II [stormwater pollution prevention plan] of the general permit. Such content includes:
 - (1) An Erosion and Sediment Control Plan approved in accordance with the County of Greene Erosion and Sediment Control Ordinance, Chapter 38, Article 3 of the Code of the County of Greene, and
 - (2) A Stormwater Management Plan approved in accordance with this Ordinance, and
 - (3) A Pollution Prevention Plan in accordance with this Ordinance and the General Permit.
 - (4) A description of any additional control measures necessary to address a TMDL.
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.

- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with Section II of the general permit, either electronically or in hardcopy.

Sec. 38-126 STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN

(a) The Stormwater Management Plan, required in Section 38-123, of this Ordinance, must apply the stormwater management technical criteria set forth in Section 38-129, of this Ordinance to the entire land-disturbing activity and consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities:

- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and postdevelopment drainage areas;
- (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
- (3) A narrative that includes a description of current site conditions and final site conditions;
- (4) A general description of the proposed stormwater management facilities and an enforceable maintenance plan that details how the facilities will be operated and maintained after construction is complete.
- (5) Information on the proposed stormwater management facilities, including:
 - (i) The type of facilities;
 - (ii) Location, including geographic coordinates;
 - (iii) Acres treated; and
 - (iv) The surface waters or karst features, if present, into which the facility will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics;
- (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of Section 38-129, of this Ordinance.
- (8) A map or maps of the site that depicts the topography of the site and includes:
 - (i) All contributing drainage areas;
 - (ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - (iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
 - (iv) Current land use including existing structures, roads, and locations of known utilities and easements;

- (v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
 - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
 - (vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
 - (viii) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 38-129 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by 62.1-44.15:35 of the Code of Virginia.
- (c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. The Administrator may elect not to require construction record drawings for stormwater management facilities for which maintenance agreements are not required pursuant to Section 38-131-(b).

Sec. 38-127 POLLUTION PREVENTION PLAN; CONTENTS OF PLANS

- (a) The Pollution Prevention Plan identifies potential sources of pollutants that may be reasonably expected from the construction site and control measures that will minimize pollutants in stormwater discharges. Pollution Prevention Plan, required by 9VAC25-870-56, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides,

- herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
- (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- (b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges:
 - (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.
- (c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

Sec. 38-128 REVIEW OF STORMWATER MANAGEMENT PLAN

- (a) The Administrator, or any duly authorized agent of the Administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:
 - (1) The Administrator shall determine the completeness of a plan in accordance with Section 38-126 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
 - (2) The Administrator shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.
 - (3) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.
 - (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance.
 - (5) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.
- (b) Approved stormwater plans may be modified as follows:

- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the Administrator. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such request.
 - (2) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.
- (c) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section 38-131-(b).

Sec. 38-129 TECHNICAL CRITERIA FOR REGULATED LAND

DISTURBING ACTIVITIES

- (a) The County of Greene requires that the technical criteria of the Virginia Stormwater Management Regulations (9VAC25-870-62 through 9VAC25-870-99) be included for all land disturbing activities that require a VSMP permit. To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the County of Greene hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include:

- (1) 9VAC25-870-63 [water quality design criteria requirements];
- (2) 9VAC25-870-65 [water quality compliance];
- (3) 9VAC25-870-66 [water quantity];
- (4) 9VAC25-870-69 [offsite compliance options];
- (5) 9VAC25-875-72 [design storms and hydrologic methods];
- (6) 9VAC25-870-74 [stormwater harvesting];
- (7) 9VAC25-870-76 [linear development project]; and,
- (8) 9VAC25-870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth under the following section entitled, "Grandfathering".

- (b) GRANDFATHERING:

A. Any land-disturbing activity shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter provided:

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

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

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

B. Locality, state, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of this chapter provided:

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

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

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

C. Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the Part II C technical criteria of this chapter 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.

D. In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

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

(c) Exceptions to the technical requirements of Part II B, or Part II C of the Regulations may be granted by the Administrator provided that they comply with the requirements stated in 9VAC25-870-122, and that, (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that

are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.

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

Exceptions to requirements for phosphorous reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

Sec. 38-130 AMENDMENTS

Any amendment to, or development on prior developed land shall follow the minimum design criteria and standards in 9VAC25-870-63 of the Virginia Administrative Code, and shall also comply with this Ordinance. Amendments to currently active, or VSMP permitted sites shall comply with Section 38-128 (b) of this Ordinance. "Active" sites will have at least some percentage of the performance bond still in place, not have been issued a "Termination" status, and not be considered "complete" by the County of Greene Program Administrator. Fees for amendments to "active" sites shall be based on those in "Table 2:Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities." Amendments to sites not considered "active", or currently permitted, shall comply with the regulations found in 9VAC25-870-63 of the Virginia Administrative Code, and be subject to application fees based on those in "Table 1:Fees for permit issuance."

Sec. 38-131 LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES

- (a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff, to be submitted to and approved by the Administrator. Such requirements shall be set forth in a "Stormwater Management Maintenance Agreement" that is to be recorded with the Clerk of the Circuit Court of Greene County, prior to the approval of the Stormwater Management Plan, and shall at a minimum:
 - (1) state that responsibility for operation and maintenance of the stormwater management facilities and storm drainage system remain with the property owner, or owners' association, and to run with the land,

- (2) be signed by the owner of the property,
 - (3) require maintenance activities utilized to comply with the operations and maintenance plan be performed in accordance with standard maintenance practices set forth in the County of Greene approved Stormwater Management design manuals,
 - (4) provide an operations and maintenance plan that,
 - a) describes routine maintenance operations,
 - b) includes an inspection schedule specifying frequency of inspections to ensure desired bmp performance, and
 - c) includes an inspection report submittal schedule indicating dates of all required inspections submitted to the Administrator,
 - (5) provide for all necessary access/right of entry by the County of Greene to the property for purposes of maintenance and regulatory inspections,
 - (6) Be enforceable by all appropriate governmental parties.
- (b) At the discretion of the Administrator, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator including, but not limited to: subdivision covenants and restrictions that specify lot owners with stormwater management facilities such as rain gardens, filter strips, etc. will be responsible for the maintenance of such facilities/bmps.
- (c) If a recorded instrument is not required pursuant to Section 38-131(b), the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other method targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.
- (d) In the event that the stormwater management facility has not been adequately maintained pursuant to the requirements set forth in the Stormwater Management Maintenance Agreement, the County of Greene shall execute enforcement procedures consistent with Section 38-135 of this Ordinance, and will recover any, and all expenses to return the stormwater facility to its designed operational condition, from the owner.

Sec. 38-132 MONITORING AND INSPECTIONS

- (a) During construction, the Administrator, or any duly authorized agent of the Administrator shall inspect the land-disturbing activity for:
- (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved stormwater management plan;
 - (3) Development, updating, and implementation of a pollution prevention plan;

- (4) Development and implementation of any additional control measures necessary to address a TMDL, and
 - (5) Verification that the contractor and on-site inspector are documenting the construction inspections in order to adequately substantiate the as-built certification per subsection (h) of this section.
- (b) During construction, the Administrator, or any duly authorized agent of the Administrator, may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this Ordinance.
 - (c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the Administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
 - (d) Pursuant to 62.1-44.15:40 of the Code of Virginia, the Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this Ordinance.
 - (e) If, at any stage of the development, the County of Greene determines that conditions on site do not comply with those of the approved Stormwater Management Plan, the county may refuse to approve further work and may revoke existing permits or approvals until a revised Stormwater Management design and plan has been submitted and approved.
 - (f) Owner inspection responsibilities during construction require that:
 - (1) the owner notify the County of Greene in advance of the proposed date of commencement of construction, to schedule a pre-construction meeting with the Administrator, the owner, and the person responsible for performing the work on site. The meeting shall identify, among other elements of the project, those activities which will require inspection;
 - (2) the person responsible for carrying out the plan shall provide self-inspections to ensure compliance with the approved plans and specifications. A certified inspection of all aspects of BMP construction will be required, including surface as-built surveys, geotechnical inspections during subsurface excavation or backfilling, riser and principal spillway installation, engineered filter media or soil placement and compaction activities;

- (3) self-inspections be performed immediately following preliminary site preparation, including stripping of vegetation, stockpiling of soil, and construction of temporary stormwater management facilities; self-inspections be performed during construction of the permanent stormwater management facilities; and that a final inspection be performed upon project completion to ensure that stormwater management facilities have been constructed in accordance with the approved stormwater management plan and specifications of the design manuals.
- (g) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator, or any duly authorized agent of the Administrator, pursuant to the Locality's adopted and State Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in Section 38-131.
- (h) Upon completion of construction, but prior to the release of any performance security or bond, the Administrator shall:
 - (1) conduct a final inspection and verify stormwater facilities and systems have been constructed pursuant to the approved plan,
 - (2) require a construction record drawing, or as-built plan be submitted and approved for all stormwater management facilities. As-built plans must show the final design specifications for the stormwater management facilities and must be certified by a professional engineer, or qualified professional. Three sets of certified as-built plans that satisfy the specifications documented in the stormwater management design manuals are required upon completion of the project. As-built plans must be accompanied by a certification statement by a qualified professional verifying that the as-built conditions meet, or exceed all design and technical criteria contained in this Ordinance.

Sec. 38-133 HEARINGS

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

- (c) A verbatim record of the proceedings of such hearings shall be taken and filed with the County of Greene Board of Supervisors. Depositions may be taken and read as in actions at law.
- (d) The County of Greene Board of Supervisors or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

Sec. 38-134 APPEALS FROM DECISION OF BOARD OF SUPERVISORS

- (a) Any person or persons jointly or severally aggrieved by a decision of the Board of Supervisors, or any taxpayer or any officer, department, board, or bureau of Greene County, may present to the Circuit Court of Greene County a petition specifying the ground on which aggrieved within thirty (30) days after the filing of decision in the office of the Board.
- (b) Upon the presentation for such petition, the court shall allow a writ of certiorari to review the decision of the Board of Supervisors and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.
- (c) The County of Greene Board of Supervisors shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (d) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a commissioner to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly, or partly, or may modify the decision brought up for review.
- (e) Cost shall not be allowed against the Board, unless it shall appear to the court that it acted in bad faith or with malice in making the decision appealed from.

Sec. 38-135 ENFORCEMENT

- (a) If the Administrator determines that there is a failure to comply with the VSMP authority permit conditions, or determines that there is failure to satisfy the Long-Term maintenance requirements set forth in Section 38-131 of this Ordinance, or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.
 - (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection (b) or the permit may be revoked by the Administrator.
 - (2) If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the Administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed. Such orders shall be issued in accordance with Section 38-132 of The County of Greene Stormwater Management Ordinance. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the Administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Section 38-135-(c) of this Ordinance.

- (b) In addition to any other remedy provided by this Ordinance, if the Administrator or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with Section 38-135, Paragraph (a)-(2) of this Ordinance.
- (c) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the Administrator may be compelled in a proceeding instituted in General District Court, County of Greene, Virginia by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (d) Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.
 - (1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
 - (i) No state permit registration;
 - (ii) No SWPPP;
 - (iii) Incomplete SWPPP;
 - (iv) SWPPP not available for review;
 - (v) No approved erosion and sediment control plan;
 - (vi) Failure to install stormwater BMPs or erosion and sediment controls;
 - (vii) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
 - (viii) Operational deficiencies;
 - (ix) Failure to conduct required inspections;
 - (x) Incomplete, improper, or missed inspections; and
 - (xi) Discharges not in compliance with the requirements of Section 9VAC25-880-70 of the general permit.
 - (2) The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
 - (3) In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
 - (4) Any civil penalties assessed by a court as a result of a summons issued by the Locality shall be paid into the treasury of the County of Greene to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

- (e) Notwithstanding any other civil or equitable remedy provided by this Section or by law, any person who willfully or negligently violates any provision of this Ordinance, any order of the Administrator, any condition of a permit, or any order of a court shall, be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months or a fine of not less than \$2,500 nor more than \$32,500, or both.

Sec. 38-136 FEES

- (a) Fees to cover costs associated with implementation of a VSMP related to land disturbing activities and issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the Applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance

Fee Type	Total Fee to be paid by Applicant (includes both VSMP authority and Department portions where applicable)	Department portion of “total fee to be paid by Applicant” (based on 28% of total fee paid)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290	\$0
General / Stormwater Management-Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$209	\$0
General / Stormwater Management-Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 1 acres or less than 5 acres)	\$2,700	\$756

General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 5 acres or less than 10 acres)	\$3,400	\$952
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 10 acres or less than 50 acres)	\$4,500	\$1,260
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 50 acres or less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 100 acres)	\$9,600	\$2,688

*If the project is completely administered by the Department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the Department.

- (b) Fees for the modification or transfer of registration statements from the general permit issued by the State Board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the County of Greene, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1. **[NOTE: Fees specified in this Subsection go to the County of Greene.]**

Table 2: Fees for the modification of transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General / Stormwater Management-Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$20
General / Stormwater Management-Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres.)	\$200
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres.)	\$250
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres.)	\$300
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres.)	\$450
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres.)	\$700

(c) The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the general permit, these fees shall apply until the permit coverage is terminated. **[NOTE: Fees specified in this Subsection go to the County of Greene.]**

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General / Stormwater Management-Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$50
General / Stormwater Management-Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 1 acres or less than 5 acres)	\$400
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 5 acres or less than 10 acres)	\$500
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 10 acres or less than 50 acres)	\$650
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 50 acres or less than 100 acres)	\$900
General / Stormwater Management-Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbing acreage equal to or greater than 100 acres)	\$1,400

General permit coverage maintenance fees shall be paid annually to the County of Greene, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

- (d) The fees set forth in Subsections (a) through (c) above, shall apply to:
- (1) All persons seeking coverage under the general permit
 - (2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
 - (3) Persons whose coverage under the general permit has been revoked shall apply to the Department for an Individual Permit for Discharges of Stormwater From Construction Activities.
 - (4) Permit and permit coverage maintenance fees outlined under Section 38-136-(c) may apply to each general permit holder.

- (e) No general permit application fees will be assessed to:
 - (1) Permittees who request minor modifications to general permits as defined in Section 38-120 and 121 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the Administrator shall not be exempt pursuant to this Section.
 - (2) Permittees whose general permits are modified or amended at the initiative of the Department, excluding errors in the registration statement identified by the Administrator or errors related to the acreage of the site.
- (f) All incomplete payments will be deemed as non-payments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late fee shall be charged to any delinquent (over 90 days past due) account. The County of Greene shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

Sec. 38-137 PERFORMANCE BOND

(9VAC25-870-104 and Code §62.1-44.15:34)

- (a) Prior to issuance of any permit, the Applicant of any site plan, or subdivision plan shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Administrator, to ensure that measures could be taken by the County of Greene at the Applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the County of Greene takes such action upon such failure by the Applicant, the Locality may collect from the Applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the Applicant or terminated.
- (b) At the discretion of the Program Administrator, prior to issuance of any permit, and ending 1 year from the date of issuance of certificate of occupancy, the Applicant of any single family residence shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Administrator, to ensure that measures could be taken by the County of Greene at the Applicant's expense should s/he fail, after proper notice, to achieve permanent vegetative cover, or permanent stabilization pursuant to Minimum Standard 3 of the Virginia Erosion and Sediment Control Minimum Standards in Section 9VAC25-840-40 of the Virginia Administrative Code. The locality may also collect from the Applicant

for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. All bonds shall be refunded/released to Applicants within 60 days of completion of these requirements.

- (c) All applicants required to post bonds shall use bonding amounts found on the County of Greene Bond Estimate Cost Sheet.

Sec. 38-138 through 150

RESERVED

RESOLUTION

BE IT RESOLVED by the Board of Supervisors of the County of Greene, Virginia, that the categories contained in the County's proposed FY 2014-15 budget are hereby appropriated subject, however, to the availability of the Federal and State funds contained in the revenue estimates of the FY 2014-15 proposed budget and the proposed transfer to the Virginia Public Assistance Fund and the County School Funds are subject to the need to meet the appropriations contained in their respective budgets.

Adopted in Open Meeting this 13th day of May, 2014.



Jim Frydl, Chairman
Greene County Board of Supervisors



BOARD OF SUPERVISORS
POST OFFICE BOX 358
STANARDSVILLE, VIRGINIA 22973
TELEPHONE: 434-985-5201

SMALL BUSINESS INVESTMENT GRANTS

Greene County recognizes the value of small businesses and the role they play in the County's long term prosperity, meeting the needs of our citizens, and in maintaining our rural yet progressive community. Therefore, Greene County seeks to support small businesses to locate, expand, and become an integral part of our community. Our public-private partnership is vital to our collective efforts to create job opportunities and strengthen our overall economic vitality.

All grants are awarded after verification of applicable business taxes paid in full, zoning requirements met, approved signage, and a current Greene County business license.

New Jobs Training Grants

Companies that make investments in creating new full time jobs (30+ hours) are eligible for a \$500 job training grant for each net increase in Greene County jobs for the company. This one time job training grant, per each new job, is available after the position(s) has been filled for twelve months. These by right grants are targeted to small businesses of less than 20 employees; larger employers will be given individual consideration.

Real Property Investment Grants

Companies making a financial investment in property/improvements resulting in the creation of three or more additional net jobs for the County, can receive the following annual grants on the new investment:

Year 1: Investment grant equal to 72 cents per 100 dollars of assessed value of new investment.

Years 2-3: Investment grant equal to 36 cents per 100 dollars of assessed value of new investment.

Years 4-5: Investment grant equal to 18 cents per 100 dollars of assessed value of new investment

These by right grants are targeted to small businesses making real property investments of less than one million dollars; larger purchases will be given individual consideration.

Machine/Tools Investment Grant

Companies making investments for manufacturing equipment with a recovery life of four or more years are eligible for a machine investment grant equal to two and one half percent (2.5%) of the purchased price of the equipment.

**RESOLUTION TO APPROPRIATE
NINETY-SEVEN THOUSAND SIXTY DOLLARS FOR THE
HAZARD MITIGATION GRANT**

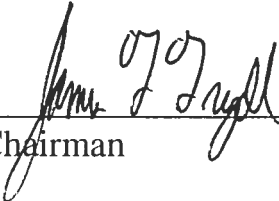
WHEREAS, the County of Greene has received funding from the Department of Emergency Management; and

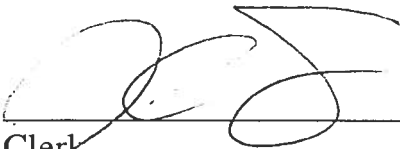
WHEREAS, the funds in the amount of ninety-seven thousand sixty dollars (\$97,060.00) need to be appropriated to the appropriate line item in the 2013-2014 budget of the County of Greene, Virginia.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Greene, Virginia that ninety-seven thousand sixty dollars (\$97,060.00) be appropriated to the 2013-2014 budget of the County of Greene.

BE IT FURTHER RESOLVED that the County Administrator of the County of Greene, Virginia is authorized to make the appropriate accounting adjustments in the budget to do all things necessary to give this resolution effect.

Adopted this 13th day of May, 2014.


Chairman


Clerk