# STORMWATER MANAGEMENT ORDINANCE



**Adopted: May 13, 2014** 

Revised: September 23, 2014

### STORMWATER MANAGEMENT ORDINANCE

Revised 9-23-14

Sec. 38-120	PURPOSE AND AUTHORITY (9VAC25-870-20, 9VAC25-870-40)	3
Sec. 38-121	DEFINITIONS (9VAC25-870-10)	4
Sec. 38-122	STORMWATER PERMIT REQUIREMENT; EXEMPTIONS	11
Sec. 38-123	STORMWATER MANAGEMENT PROGRAM ESTABLISHED;	12
	SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS	12
Sec. 38-124	SINGLE FAMILY RESIDENTIAL CONSTRUCTION	13
Sec. 38-125	STORMWATER POLLUTION PREVENTION PLAN;	13
	CONTENTS OF PLANS	13
Sec. 38-126	STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN	14
Sec. 38-127	POLLUTION PREVENTION PLAN; CONTENTS OF PLANS	15
Sec. 38-128	REVIEW OF STORMWATER MANAGEMENT PLAN	
Sec. 38-129	TECHNICAL CRITERIA FOR REGULATED LAND	17
	DISTURBING ACTIVITIES	
Sec. 38-130	AMENDMENTS	
Sec. 38-131	LONG-TERM MAINTENANCE OF PERMANENT	
Sec. 38-132	MONITORING AND INSPECTIONS	
Sec. 38-133	HEARINGS	
Sec. 38-134	APPEALS FROM DECISION OF BOARD OF SUPERVISORS	
Sec. 38-135	ENFORCEMENT	
	FEES	
	PERFORMANCE BOND	
	104 and Code §62.1-44.15:34)	
Sec. 38-138 th	rough 150 RESERVED	31

### 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 May 13, 2014, 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:
  - 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;
  - 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:
  - 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, or An Agreement in Lieu of a Stormwater Management Plan for Single Family Residential Construction.
  - (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 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;

- 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:
  - 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 <u>9VAC25-870-10</u>, (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;
  - the person responsible for carrying out the plan shall provide selfinspections 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 of 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 prescribed 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.
  - If a permittee fails to comply with a notice issued in accordance with this (2)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

The following total fees to be paid by an applicant apply to (i) any operator seeking coverage under a July 1, 2014, General Permit for Discharges of Stormwater from Construction Activities or (ii) on or after July 1, 2014, to any operator seeking coverage under a General Permit for Discharges of Stormwater from Construction Activities, a state or federal agency that does not file annual standards and specifications, or an individual permit issued by the board. On and after approval by the board of a VSMP authority for coverage under the General Permit for Discharges of Stormwater from Construction Activities, no more than 50% of the total fee to be paid by an applicant set out in this part shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted for review in accordance with <a href="https://example.com/9VAC25-870-108">9VAC25-870-108</a>. The remaining total fee balance to be paid by an applicant shall be due prior to the issuance of coverage under the General Permit for Discharges of Stormwater from Construction Activities.

When a site or sites are 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 the following table.

(See below for fees.)

acreage equal to or greater than 50 acres and less than 100 acres)		
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)	\$9,600	\$2,688
Individual Permit for Discharges of Stormwater from Construction Activities (This will be administered by the department)	\$15,000	\$15,000

<sup>\*</sup> 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	\$300

land disturbance acreage equal to or greater than 10 acres and less than 50	
acres.)	
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