



MEMORANDUM

TO: Public Works Committee

FROM: Joe C. Wilder, Director of Public Works *JCW*

SUBJECT: Meeting of May 25, 2021

DATE: May 18, 2021

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There will be a meeting of the Public Works Committee on Tuesday, May 25, 2021 at 8:00 a.m. **in the conference room located on the second floor of the north end of the County Administration Building at 107 North Kent Street, Suite 200.** The agenda thus far is as follows:

1. Discussion regarding vehicle stickers for solid waste disposal.  
**(Attachment 1)**
2. Discussion/approval of the revision to county code Chapter 143-Stormwater/Erosion & Sediment Control Ordinance.  
**(Attachment 2)**
3. Discussion about asphalt paving in Shawneeland.  
**(Attachment 3)**
4. Discussion on the sale of the old Albin Citizen Convenience Center.  
**(Attachment 4)**
5. Public Works project updates.
6. Miscellaneous Reports:
  - a. Tonnage Report: Landfill  
**(Attachment 5)**
  - b. Recycling Report  
**(Attachment 6)**

- c. Animal Shelter Dog Report:  
**(Attachment 7)**
- d. Animal Shelter Cat Report  
**(Attachment 8)**
- e. Shawneeland Sanitary District Advisor Committee quarterly meeting minutes  
**(Attachment 9)**

JCW/kco

Attachments: as stated



# COUNTY of FREDERICK

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TO: Public Works

FROM: C. William Orndoff, Jr., Treasurer

DATE: May 12, 2021

The Treasurer's Office has researched the cost of issuing a decal for the purpose of the dumpster sites. The total cost of administering this program would be approximately \$153,000.00. This includes the cost of the decal, envelope, , and postage, based on 100,000 decals issued. Decal cost could be higher pending the type of decal selected. The Virginia State Police have policies as to the placement/size of decals

Other factors to be considered are:

Owners of Real Estate that do not live in Frederick County

Clarke County residents

New residents/ move ins as an ongoing cost

This memo is for information purposes only. Issuance of the decal is to be determined.

**Draft Stormwater/Erosion and Sediment Control Ordinance  
Frederick County, Virginia. – Proposed County Code Chapter 143  
May 14, 2021 DRAFT VERSION**

**GENERAL REFERENCES**

Building construction – See Chapter **52**  
Subdivision of land – See Chapter **144**  
Sewage disposal and sewars - See Chapter **161**  
Zoning – See Chapter **165**

**§143-100 Purpose**

The Frederick County Board of Supervisors desires to protect the health, safety, welfare, and property of Frederick County residents and businesses, and the quality of waters within the County. The Frederick County Board of Supervisors recognizes that development tends to degrade these waters through erosion and sedimentation, increased flooding, stream channel erosion, and the transport and deposition of waterborne pollutants. This degradation is due, in part, to increased stormwater runoff as property is developed. Hence, as required by § 62.1-44.15:27 Code of Virginia and in compliance with the Virginia State Water Control Board requirements, the Frederick County Board of Supervisors has determined that it is in the public interest to establish requirements which regulate the discharge of stormwater runoff from developments by integrating hydrologic and water quality functions into all aspects of a development's design, landscape, and infrastructure.

- A. The purpose of this ordinance is to establish minimum stormwater management and erosion and sediment control requirements which:
1. Reduce flood damage to property; minimize the impacts of increased stormwater runoff from new land development.
  2. Maintain the hydraulic adequacy of existing and proposed culverts, bridges, dams, and other structures.
  3. Prevent, to the greatest extent feasible, an increase in nonpoint source pollution.
  4. Maintain the integrity of stream channels for their biological functions and drainage.
  5. Maintain natural drainage patterns to the extent practicable to promote existing hydrologic processes.
  6. Promote infiltration of stormwater to recharge groundwater resources.
  7. Minimize the impact of development upon stream erosion.

8. Preserve and protect water supply facilities from increased flood discharges, stream erosion, and nonpoint source pollution.
  9. Establish provisions for long-term responsibility for and maintenance of stormwater management control devices and techniques to manage the quality and quantity of stormwater runoff.
  10. Provide effective control of soil erosion and sediment deposition and to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources.
- B. This ordinance supplements and is to be applied in conjunction with Frederick County building code, subdivision, and zoning ordinances as they apply to the development or subdivision of land within the county.

### **§143-105 Authority**

- A. This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.4 (§ 62.1-44.15.51 et seq.), known as the Virginia Erosion and Sediment Control Law; and Title 62.1 Chapter 3.1, Article 2.3 (§62.1-44.15.24 et seq.), known as the Virginia Stormwater Management Act.
- B. Pursuant to the Code of Virginia § 62.1-44.15:54, the Frederick County Public Works Department is designated as the Virginia Erosion and Sediment Control Program (VESCP) Authority to operate a Virginia Erosion and Sediment Control Program in Frederick County, Virginia and for the Towns of Middletown and Stephens City in compliance with all required elements hereto.
- C. Pursuant to the Code of Virginia § 62.1-44.15:27, the Frederick County Public Works Department is designated as a Virginia Stormwater Management Program (VSMP) authority to operate a Virginia Stormwater Management Program in Frederick County, Virginia and for the Towns of Middletown and Stephens City in compliance with all required elements hereto.

### **§143-110 Definitions**

In addition to the definitions set forth in 9VAC25-870-10 of the Virginia Stormwater Management Program (VSMP) Regulations, 9VAC25-840-10 of the Virginia Erosion and Sediment Control (VESC) Regulations, and 9VAC25-850-10 of the Virginia Erosion and Sediment Control and Stormwater Management Certification (VSMC) Regulations, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter have the following meanings for the purposes of this chapter, unless the context clearly indicates otherwise.

ADMINISTRATOR

The Virginia Stormwater Management Program (VSMP) authority and Virginia Erosion and Sediment Control (VESCP) Authority has been designated to the Frederick County Public Works Department responsible for administering the VSMP and VESCP on behalf of Frederick County, Virginia.

#### AGREEMENT IN LIEU OF PLAN

A contract between the VESCP authority and the owner that specifies conservation measures that must be implemented in the construction of a single-family residence. This contract may be executed by the VESCP authority in lieu of a formal site plan for the residence.

#### AGREEMENT IN LIEU OF STORMWATER MANAGEMENT PLAN

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 plan.

#### APPLICANT

Any person applying for a land disturbance permit and/or a stormwater permit or any person submitting an erosion and sediment control plan for approval or any person submitting a stormwater management plan for approval.

#### BEST MANAGEMENT PRACTICE or BMP

Schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce the pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

#### BEST MANAGEMENT PRACTICE IMPLEMENTATION PLAN or BMP IMPLEMENTATION PLAN

Is a site-specific design plan for the implementation of BMPs on an individual single-family lot or other parcel with less than one acre of land disturbance within a larger common plan of development. The BMP Implementation Plan provides detailed information on the implementation of the SWM pollutant load and volume reduction BMP and other requirements for the individual lot or parcel as detailed in the SWPPP and SWM plans of the VSMP Permit for the larger common plan of development.

#### BOARD

The Virginia State Water Control Board.

#### CERTIFICATE OF COMPETENCE

A certificate of competence, issued to an individual from the Board, or successful completion, within one year after enrollment, of the Board's training program for:

A. Project inspection for ESC;

- B. Project inspection for SWM;
- C. Plan review for ESC, or is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia;
- D. Plan review for SWM;
- E. Program administration for ESC;
- F. Administration for SWM;

Responsible land disturber, or is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

#### CHANNEL

A natural or man-made waterway.

#### CLEAN WATER ACT OR CWA

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

#### CLEARING

Any activity which removes vegetative ground cover including, but not limited to, root material removal or top-soil removal.

#### COMMENCEMENT OF LAND DISTURBANCE

The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of soil fill material).

#### COMMON PLAN OF DEVELOPMENT

The contiguous area of a proposed residential, commercial, or industrial subdivision where the timing of the development of any one or multiple lots or parcels may result in separate and distinct construction activities taking place at different times on different schedules.

#### CONTROL MEASURE

Any best management practice or stormwater facility other method used to prevent or reduce the discharge of pollutants to surface waters.

#### COUNTY

County of Frederick, Virginia.

#### DEPARTMENT

The Department of Environmental Quality.

#### DESIGN STORM

For purposes of addressing quantity control provisions of §143-165 means the one-year, two-year, 10-year, 24-hour design storms as defined in §143-145.E. The design storm for purposes of complying with the water quality provisions of §143-165.C is the one-inch rainfall depth as applied with the “Virginia Runoff Reduction Method”

#### DEVELOPMENT

Either or both of the following:

- A. 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.
- B. A tract or parcel 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

The Director of Frederick County Public Works or assigned designee.

#### DRAINAGE AREA

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

#### EROSION AND SEDIMENT CONTROL (ESC) PLAN OR PLAN

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

#### EROSION CONTROL HANDBOOK

The Virginia Erosion and Sediment Control handbook and/or a locally adopted erosion and sediment control handbook with such amendments, modifications and supplements as may, from time to time, be properly adopted.

#### EROSION IMPACT AREA

An area of land not associated with current 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 or to shorelines where the erosion results from wave action or other coastal processes.

#### EXCAVATING

Any digging, scooping or other methods of removing earth materials.



## FILLING

Any depositing or stockpiling of earth materials.

## FINAL STABILIZATION

One of the following situations has occurred:

- A. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will inhibit erosion.
- B. For individual lots in residential construction, final stabilization can occur by either:
  - i. The homebuilder completing final stabilization as specified in **Subsection A** of this definition; or
  - ii. The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.
- C. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in **Subsection A** of this definition.

## FLOOD-FRIDGE

The portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes, but is not limited to, the flood or floodway fringe designated by the Federal Emergency Management Agency.

## FLOODING

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, thereby causing or threatening damage.

## FLOODPLAIN

The area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event.

This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency.

#### FLOOD-PRONE AREA

The component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include, but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

#### FLOODWAY

The channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency.

#### GENERAL PERMIT

A state permit authorizing a category of discharges under the CWA and the Act within a geographical area.

#### GRADING

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

#### HYDROLOGIC UNIT CODE or HUC

A watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset.

#### IMMEDIATELY

As soon as practicable, but no later than that end of the next workday, following the day when the land-disturbing activities have temporarily or permanently ceased. In the context of this permit issued under this chapter, "immediately" is used to define the deadline for initiating stabilization measures.

#### IMPAIRED WATERS

Surface waters identified as impaired on the most recent Water Quality Assessment Integrated Report.

#### IMPERVIOUS COVER

A surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

#### INFEASIBLE

Not technologically possible or not economically practicable and achievable in light of best industry practices.

## INITIATION OF STABILIZATION ACTIVITIES:

- A. Prepping the soil for vegetative or non-vegetative stabilization;
- B. Applying mulch or other non-vegetative product to the exposed area;
- C. Seeding or planting the exposed area;
- D. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; or
- E. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

## INSPECTION

An on-site review of the project's compliance with the VESCP authority land-disturbing permit or VSMP authority permit, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of this chapter.

## KARST AREA

Any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

## KARST FEATURES

Sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

## LAND DISTURBANCE or LAND-DISTURBING ACTIVITY

Any man-made change to the land surface that potentially changes its runoff characteristics, including, but not limited to clearing, grading, or excavation, except that the term shall not include those exemptions specified in **§62.1-44.15:34** and **§62.1-44.15:51**, Code of Virginia and in this chapter.

## LAND DISTURBING PERMIT or APPROVAL

A permit or other form of approval issued by the County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any similar activity.

## LAYOUT

A conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

## LOCALIZED FLOODING

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

#### MAIN CHANNEL

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

#### MAJOR MODIFICATION

For the purposes of this chapter, the modification or amendment of an existing state permit before its expiration that is not a minor modification as defined in this regulation.

#### MAN-MADE

Constructed by man.

#### MEASURABLE STORM EVENT

A storm event resulting in an actual discharge from the construction site.

#### MINOR MODIFICATION

For the purposes of this chapter, minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40 CFR 122.63 and as specified in 9VAC25-870-640. Minor modification for the purposes of this chapter also means other modifications and amendments 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 state permit modification or amendment does not substantially alter state permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

#### NATURAL CHANNEL DESIGN CONCEPTS

The utilization of engineering analysis based on 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 bank full storm event within its banks and allows larger flows to access its floodplain.

#### NATURAL STREAM

A tidal or non-tidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

#### OPERATOR

The owner or operator of any facility or activity subject to regulation under this Ordinance.

#### OWNER

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

#### PEAK FLOW RATE

The maximum instantaneous flow from a prescribed design storm at a particular location.

#### PERCENT IMPERVIOUS

The impervious area within the site divided by the area of the site multiplied by 100.

#### PERMIT or VSMP AUTHORITY PERMIT

An approval to conduct a land-disturbing activity issued by the Frederick County Public Works Department, the permit-issuing VSMP authority, for the initiation of a land-disturbing activity after evidence of coverage under the General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 et seq. of the Virginia Stormwater Management Program Regulations has been provided. A person shall not conduct any land disturbing activity until he has submitted a permit application to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required, a stormwater management plan or an executed agreement in lieu of a stormwater plan and has obtained VSMP authority approval to begin land disturbance.

#### PERMITTEE

The person to whom the land-disturbing permit or approval is issued, and/or the person to whom the VSMP permit is issued, and/or the person who certifies that the approved erosion and sediment control plan will be followed and/or the person who certifies that the approved stormwater plan will be followed.

#### PERSON

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

A location at which concentrated stormwater runoff is released.

#### POST-DEVELOPMENT

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

#### PRE-DEVELOPMENT

Refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the plan approval VSMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing

structures, roads, and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

#### PRIOR DEVELOPED LAND

Land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

#### QUALIFIED PERSONNEL

A person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and who assesses the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity.

#### REGULATIONS

The Virginia Stormwater Management Program (VSMP) Regulations, 9VAC25-870-10, et seq, as amended, the Virginia Erosion and Sediment Control Regulations 9VAC25-840-10, et seq, as amended, or the General VPDES Permit regulations, 9VAC25-880-10, et seq, as amended.

#### RESPONSIBLE LAND DISTURBER

An individual from the project or development team, who will be in charge and responsible for carrying out a land-disturbing activity covered by an agreement in lieu of a plan, when applicable, or an approved erosion and sediment control plan, who:

- A. holds a certificate of competence as a responsible land disturber, or
- B. holds a current certificate of competence from the Board in the area of inspection, or
- C. holds a current contractor certificate of competence for erosion and sediment control, or
- D. is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Section §54.1-400 et seq. of Chapter 4 of Title 54.1 of the Code of Virginia.

#### RUNOFF or STORMWATER RUNOFF

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

#### RUNOFF CHARACTERISTICS

Include maximum velocity, peak flow rate, volume, and flow duration.

## RUNOFF VOLUME

The volume of water that runs off the site from a prescribed design storm.

## SINGLE FAMILY RESIDENCE

A non-commercial dwelling that is designed to be occupied exclusively by one family.

## SITE

The land or water area where any facility or activity is physically located or conducted, a parcel of land being developed, or a designated area of a parcel in which the land development project is located. Also, 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.

## SITE HYDROLOGY

The movement of water on, across, through and off the site as determined by parameters including, but not limited to, soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

## STATE

The Commonwealth of Virginia.

## STATE PERMIT

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 a Municipal Separate Storm Sewer Systems (MS4). Under these state permits, the State imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Act, and this chapter. As the mechanism that imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, a state permit for stormwater discharges from an MS4 and, after June 30, 2014, a state permit for conducting a land-disturbing activity issued pursuant to the Virginia Stormwater Management Act, are also types of Virginia Pollutant Discharge Elimination System (VPDES) Permits. "State permit" does not include any state permit that has not yet been the subject of final Board action, such as a draft state permit. Approvals issued pursuant to this chapter, 9VAC25-880, and 9VAC25-890 are not issuances of a permit under §62.1-44.15.01 of the Code of Virginia.

## STATE WATERS

All water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

## STORMWATER

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

A combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

**A. MAN-MADE STORMWATER CONVEYANCE SYSTEM**

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

**B. NATURAL CONVEYANCE SYSTEM**

The main channel of a natural stream and the flood-prone area adjacent to the main channel; or

**C. RESTORED CONVEYANCE SYSTEM**

A stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

**STORMWATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITY**

A discharge of stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

**STORMWATER MANAGEMENT CONCEPT PLAN**

Documents developed at the preliminary plan, zoning, or other state of the development process that establish the initial layout of the development along with sufficient information to ensure that the final development stormwater management plan will comply with this chapter.

**STORMWATER MANAGEMENT FACILITY**

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**

Documents containing material for describing methods for complying with the requirements of this ordinance and the VSMP Permit regulations.

**STORMWATER POLLUTION PREVENTION PLAN or SWPPP**

Documents prepared in accordance with good engineering practices and that identify potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site. In addition, the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, and/or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.



## STORMWATER POLLUTION PREVENTION PLAN TEMPLATE or SWPPP TEMPLATE

Documents intended to be used for single family residential construction activity that disturbs less than one acre of land and is part of a larger common plan of development to identify all applicable requirements of the SWPPP that was developed for the larger common plan of development.

## SUBDIVISION

The same as defined in the Frederick County Subdivision Ordinance (Chapter 144 of Frederick County, Virginia Code).

## SURFACE WATERS

- A. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- B. All interstate waters, including interstate wetlands;
- C. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  1. That is used or could be used by interstate or foreign travelers for recreational or other purposes;
  2. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  3. That is used or could be used for industrial purposes by industries in interstate commerce.
- D. All impoundments of waters otherwise defined as surface waters under this definition;
- E. Tributaries of waters identified in **Subsections A through D** of this definition;
- F. The territorial sea; and
- G. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in **Subsections A through F** of this definition.

## TOTAL MAXIMUM DAILY LOAD or TMDL

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

## TOWN

Either of the incorporated Towns of Middletown or Stephens City.

## VIRGINIA EROSION AND SEDIMENT CONTROL PERMIT PROGRAM AUTHORITY

The County, which has adopted a soil erosion and sediment control program that has been approved by the Board, is the Virginia Erosion and Sediment Control Permit Program Authority for issuance of land disturbing permits, plan review, inspections, and enforcement of compliance with applicable laws and regulations, in the County and in the Towns of Middletown and Stephens City.

## VIRGINIA EROSION AND SEMIENT CONTROL PROGRAM or VESCP

A program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and non-agricultural run-off associated with a land disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include items where applicable 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 its associated regulations.

## VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM (VESCP) LAND DISTURBANCE or VESCP LAND-DISTURBING ACTIVITY

Any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the State, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

- A. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- B. Individual service connections;
- C. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk that is hard surfaced;
- D. 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;
- E. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;
- F. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, 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 the Code of Virginia;

- G. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- H. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
- I. Disturbed land areas of less than 10,000 square feet in size; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;
- J. Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;
- K. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this and the regulations adopted pursuant thereto; and
- L. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

#### VIRGINIA STORMWATER BMP CLEARINGHOUSE WEBSITE

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

#### VIRGINIA STORMWATER MANAGEMENT ACT or ACT

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 HANDBOOK

A collection of pertinent information that provides general guidance for compliance with the Act and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

#### VIRGINIA STORMWATER MANAGEMENT PROGRAM or VSMP

The program established by the County and approved by the Board to manage the quality and quantity of runoff resulting from land-disturbing activities and includes the County's local ordinance and requirements for plan review, inspection, enforcement, permit requirements, policies and guidelines, and technical materials.

#### VIRGINIA STORMWATER MANAGEMENT PROGRAM AUTHORITY or VSMP AUTHORITY

The County, which has adopted a stormwater management program that has been approved by the Board, is the VSMP Authority for issuance of VSMP authority permits, plan review, inspections, and enforcement of compliance with applicable laws and regulations, in the County and in the Towns of Middletown and Stephens City.

A program approved by the Board after September 13, 2011, 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 the Act and associated regulations, and evaluation consistent with the requirements of the Act and associated regulations.

#### VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) LAND DISTURBANCE or VSMP LAND-DISTURBING ACTIVITY

A manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include:

- A. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1;
- B. 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 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 the Code of Virginia;
- C. 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;

- D. Land-disturbing activities that disturb less than one acre of land area except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance;
- E. Discharges to a sanitary sewer or a combined sewer system;
- F. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
- G. 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;
- H. 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 VSMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of §143-130, including a registration statement that substantiates the occurrence of an emergency, is required within 30 days of commencing the land-disturbing activity.

**VSMP CONSTRUCTION GENERAL PERMIT or CONSTRUCTION GENERAL PERMIT**  
 The General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 of the Virginia Stormwater Management Program Regulations

**WASTELOAD ALLOCATION or WASTELOAD or WLA**  
 The portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

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

**WETLANDS**  
 Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

**§143-125 Permits Required and Exemptions**

- A. No person shall conduct a VESCP land-disturbing activity as defined in **§143-110** until the County land disturbing permit has been obtained from the Administrator and maintains in good standing, a permit entitling such person and any contractor or agent of such person to conduct such activity. No permit involving land-disturbing activity will be issued without an approved erosion and sediment control plan by Frederick County and certification that the plan will be carried out by the designated Responsible Land Disturber. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all associated permits required by Federal, State and local laws and regulations shall be obtained, and evidence of such permits submitted to the County.

Reference: § 62.1-44.15.55

- B. No person shall conduct a VSMP land disturbing activity as defined in **§143-110** until a Frederick County land disturbing permit as required in **Subsection A** and a VSMP authority permit has been obtained from the Administrator and maintains in good standing, a permit entitling such person and any contractor or agent of such person to conduct such activity. No permit involving a VSMP land-disturbing activity will be issued without an approved stormwater plan the County.

Reference: § 62.1-44.15.34. A

### **§143-130 Permit Application**

- A. Prior to issuance of a Frederick County land-disturbing permit for a VESCP land-disturbing activity, the following items must be submitted in accordance with the provisions of this chapter and approved:
1. Completed Frederick County land disturbing permit application;
  2. The approved erosion and sediment control plan or an executed agreement-in-lieu of an erosion and sediment control plan;
  3. The performance bond(s) in compliance with **§143-240**;
  4. The applicable permit fee;
  5. Completed Land Disturbance Permit Fee Calculation Form;
  6. All applicable outside agency approvals; and
  7. Copies of all applicable local, state, and federal permits.
- B. Prior to issuance of a Frederick County VSMP permit for a VSMP land-disturbing activity the following items must be submitted in accordance with the provisions of this chapter and approved:

1. The requirements of a land-disturbing permit application of **Subsection A**;
2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements applicable to a VSMP land-disturbing activity;
3. A stormwater management plan or an executed agreement in lieu of a plan that complies with Virginia stormwater requirements and the County stormwater requirements as outlined in this regulation;
4. A VSMP Authority permit application/registration statement if such statement is required. A person shall not conduct any land-disturbing activity until he has submitted a permit application to the VSMP authority that includes a state VSMP permit statement if such statement is required. A registration statement is not required for a detached single-family home construction within or outside of a common plan of development or sale, but such projects must adhere to the requirements of the general permit; (§62.1-44.15:28.8)
5. All applicable fees; and
6. Evidence of coverage under the state general permit for discharges from construction activities through the state electronic database.

Reference: 9VAC25-870-59;9VAC25-870-108;9VAC25-870-750; 62.1-44.15:34

- C. Prior to issuing coverage under an existing VSMP Authority permit for a land-disturbing activity within a common plan of development, the following items must be addressed:
1. The requirements of a Frederick County land-disturbing permit application of **Subsection A**;
  2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements applicable to a VSMP and disturbing activity, or when the area of disturbance is less than one acre, a SWPPP Template and a BMP Implementation Plan consistent with the BMP performance goals of the common plan of development; and
  3. A stormwater management plan that complies with Virginia stormwater requirements and the County stormwater requirements as outlined in this regulation.
- D. Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation and submission of plans, obtaining approval of the required plans, and obtaining all required permits shall be the responsibility of the owner of the land.

Reference: §62.1-44.15.34; 9VAC25-870-54; 9VAC25-870-108; 9VAC25-870-1170

## **§143-145 Applicable Design Standards, Specifications and Methods**

- A. The standards contained within the Virginia Erosion and Sediment Control Regulations (VESCR), the Virginia Erosion and Sediment Control Handbook (VESCH) (latest edition), the Virginia Stormwater Management Handbook (VSMH) (latest edition), and any additional guidance provided by the VSMP Authority are to be used by the applicant in the preparation and submission of an erosion and sediment control plan, and by the VSMP Authority in considering the adequacy of a plan submittal. When the standards vary between the publications, the state regulations shall take precedence unless otherwise noted in this chapter.
- B. The latest approved version of BMPs found on the Virginia Stormwater BMP Clearinghouse Website or the Virginia DEQ website shall be utilized to effectively reduce the pollutant load and runoff volume as required in this chapter in accordance with the Virginia Runoff Reduction Method.

Reference: 9VAC25-870-65

- C. The erosion and sediment control plan and stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface run-off.

Reference: 9VAC25-870-55 A

- D. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the development project as a whole. Individual lots or parcels shall not be considered separate development projects, but rather the entire subdivision shall be considered a single development project. Hydrologic parameters shall reflect the ultimate development and shall be used in all engineering calculations. Implementation of the plan may be phased or carried out by individual or separate applicants as referenced in **§143-130.C**.
- E. Unless otherwise specified, the following shall apply to the hydrologic computations of this section:
  - 1. The prescribed design storms are the 1-year, 2-year, 10-year and 100-year 24-hour storms using the site-specific rainfall precipitation frequency data recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14 and provided in the VA SWM Handbook.
  - 2. All hydrologic analyses shall be based on the existing watershed characteristics and how the ultimate development condition of the subject project will be addressed.
  - 3. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited



to TR-55 and TR-20, hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers, or other NRCS standard hydrologic and hydraulic methods, shall be used to conduct the analyses described in this part.

4. For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation.
5. Pre-development and post-development runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall be considered appropriate practices.

Reference: 9VAC25-870-72

6. All proposed sediment control or stormwater impounding structures shall be designed in accordance with State standards.

Reference: 9VAC25-870-85

#### **§143-148 Grandfathering provisions**

- A. Any VSMP 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. 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.

References: 9VAC25-870-48, § 62.1-44.15:25,62.1-44.15:28

#### **§143-150 Stormwater Pollution Prevention Plan Components and Applicability**

For each of the following activities as may be relevant, a stormwater pollution prevention plan (SWPPP) shall contain the indicated components:

A. VESCP Activities:

1. General SWPPP requirements as described in **§143-155**;
2. An erosion and sediment control (ESC) plan or if single-family residential construction an agreement in lieu of an ESC plan as described in **§143-160**.

B. VSMP land-disturbing activities:

1. General SWPPP requirements as described in **§143-155**;
2. An ESC plan or if single-family residential construction an agreement in lieu of an ESC plan as described in **§143-160**;
3. A SWM plan as described in **§143-165**; and
4. A PPP plan as described in **§143-175**.

C. VSMP land-disturbing activities part of a larger Common Plan of Development shall include:

1. General SWPPP requirements as described in **§143-155**;

2. An ESC plan or if single family residential construction an agreement in lieu of an ESC plan as described in **§143-160**;
  3. A SWM Plan as described in **§143-165**, or if less than 1 acre a BMP Implementation Plan or a completed SWPPP Template demonstrating compliance with all applicable elements of the approved SWPPP developed for the larger common plan of development.
- D. The requirements for a SWPPP as outlined in §9VAC25-870-54 shall be included with each plan submitted for review.

Reference: § 62.1-44.15:34; 9VAC25-870-53;9VAC25-870-54;9VAC25-870-30; 9VAC-880-70 Section II.

### **§143-155 General Stormwater Pollution Prevention Plan (SWPPP) Requirements**

- A. In addition to the applicable components as provided in **§143-150**, a Stormwater Pollution Prevention Plan (SWPPP) shall include all items identified within the Virginia General VPDES Permit for Discharges of Stormwater Construction Activity (General Permit No.: VAR10).
- B. Prior to engaging in the activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of a qualified person to the Administrator. 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 **§143-225**.

Reference: § 62.1-44.15.55 B

- C. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. The operator shall make SWPPP's and all updates available upon request to County personnel.

Reference: 9VAC25-870-54 G

### **§143-160 Erosion and Sediment Control (ESC) Program and Plan Requirements**

- A. As stated in §143-150, Frederick County Public Works Department will be the program authority to operate the County's Erosion and Sediment Control Program. Pursuant to §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 control program of the County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person;

- B. As required in §143-150, an erosion and sediment control plan shall be developed and referenced into the SWPPP where a SWPPP is required. The erosion and sediment control plan shall not be considered approved until reviewed by a certified plan reviewer. When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice 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 person authorized to proceed with the proposed activity.
- C. The erosion and sediment control plan shall be designed to control stormwater volume and velocity within the site to minimize soil erosion and to minimize sediment discharges from the site by incorporating all the minimum standards as outlined in 9VAC25-840-40, incorporate all requirements for flow rate capacity and velocity requirements as outlined in section 62.1-44.15.52.A of the Code of Virginia and incorporating the following performance goals to the maximum extent practicable:
1. The area of land disturbance at any one time shall be the minimum necessary to install and/or construct the proposed site improvements;
  2. The installation and/or construction of the proposed site improvements shall be phased to limit the duration of exposed soils to the minimum time needed to construct and/or install the improvements in the immediate vicinity of the disturbance;
  3. The disturbance and/or compaction of the existing native soils shall be minimized by directing construction traffic, material stockpiling, and other activities to only those areas of the site that are designated for proposed infrastructure (buildings, roads, parking areas, etc.);
  4. Disturbance of slopes 15% or steeper shall be avoided to the maximum extent practicable given the proposed site improvements. When disturbance of steep slopes is unavoidable, or the resulting grade of exposed soil is 15% or greater, the area shall be stabilized immediately with an approved soil stabilization matting;
  5. Existing topsoil shall be preserved to the maximum extent practical;
  6. The selection and design of erosion and sediment controls shall be based on the expected frequency, intensity, and duration of precipitation, and the corresponding expected volume of runoff and sediment erosion, sedimentation, and transport during the land-disturbing activity:
    - a. The volume and peak flow rate of runoff from the construction site should be estimated for the 2-year and/or 10-year design storms as required for the individual controls being considered using accepted NRCS hydrologic methods as described in the VESCH and the VSWMH, latest editions; and

- b. The expected volume of sediment erosion, sedimentation, and transport during activities should be estimated considering the surface area, length, and slope of exposed soil, the soil horizons exposed by grading activities, and the range of soil particle sizes expected to be present.
7. Provide 50-foot natural vegetated buffers around surface waters, and direct stormwater to vegetated areas where feasible. Where infeasible, alternate practices that remove or filter sediment and maximize stormwater infiltration may be approved by the County in accordance with state standards;
8. Sediment basins, when used in accordance with the requirements of the VESCH shall incorporate an outlet structure that discharges from the surface.

Reference: 9VAC25-880-70 Part II.B.2; 9VAC25-870-54. F, 9VAC25-840-40

- D. When the land-disturbing activity is part of a larger common plan of development, the ESC plan shall demonstrate compliance with the approved SWPPP for the larger common plan of development, and shall contain the following information and/or statements demonstrating compliance with the minimum standards of the erosion and sediment control regulations of the Board (9VAC25-840):
  1. Compliance with the water quantity requirements of §62.1-44 et. seq. of the Code of Virginia shall be deemed to satisfy the requirements of 9VAC25-840.19 (Minimum Standard 19 of the Virginia Erosion and Sediment Control Regulations);
  2. The location, dimensions, and other information as required ensuring the proper construction and maintenance of all temporary erosion and sediment controls necessary to comply with the provisions of this chapter;
  3. Calculations for sediment traps, basins, outlet protection, etc. as applicable;
  4. A sequence of construction and clear delineation of the initial areas of land disturbance necessary for installation of the initial erosion and sediment control measures such as earthen dams, dikes, and diversions. The areas of initial land-disturbance shall be the minimum necessary for installation of the initial erosion and sediment control measures and the delineation should include all areas necessary for such installation, including stockpiles, borrow areas, and staging areas. The sequence should also include the stabilization of these areas *immediately* upon reaching final grade;
  5. Clear delineation of the proposed areas of land disturbance and those areas to be protected from construction activity and traffic, including the following:
    - a. Minimize the disturbance of slopes 15% or greater; and
    - b. Minimize soil compaction and, unless infeasible, preserve topsoil.

6. Requirement that final stabilization of disturbed areas shall be initiated immediately upon reaching final grade on any portion of the site, and that temporary stabilization shall be initiated immediately upon areas that may not be at final grade but will remain dormant for longer than 14 days.
  7. A comprehensive drainage plan including:
    - a. The existing and proposed drainage patterns on the site;
    - b. All contributing drainage areas to permanent stormwater practices and temporary sediment controls;
    - c. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
    - d. Land cover such as forest meadow, and other vegetative areas;
    - e. Current land use including existing structures, roads, and locations of known utilities and easements;
    - f. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
    - g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
    - h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to forest or reforestation, buffers, impervious cover, managed turf (lawns), and easements.
  8. The location of any stormwater management practices and sequence of construction;
  9. Temporary natural vegetated buffers in accordance with the requirements of the VSMP Construction General Permit. These buffers shall be delineated on the ESC Plan and protected with accepted signage, safety fence, or other barrier.
- E. In lieu of the plan described in **Subsections A,B, and C** of this section, single-family residential construction that is not part of a larger common plan of development, including additions or modifications to an existing single-family detached residential structure, may execute an ESC Agreement in Lieu of an Erosion and Sediment Control Plan with the Administrator.
- F. In lieu of the plan described in **Subsections A,B, and C** of this section, single-family residential construction that disturbs less than 1 acre and part of a larger common plan of development, may execute a SWPPP Template with the Administrator that demonstrates

compliance with the practices and strategies identified for the lot or parcel in the larger common plan of development SWPPP.

G. Regarding the erosion and sediment control minimum standards as outlined in 9VAC25-840-40, the following more stringent changes are applied within the County:

1. **Subsection 6.b.** Surface run-off from disturbed areas that are 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 100-year-storm of twenty-four-hour duration. Runoff coefficients used in runoff calculations shall correspond to a bare earth condition or those expected to exist while the sediment basin is utilized;
2. **Subsection 14 - Regulation of Watercourse Crossing** - All applicable federal, state and local regulations pertaining to working in or crossing live watercourses shall be met. Prior to obtaining a land-disturbance permit, copies of all applicable environmental permits, including but not limited to wetland disturbance, stream crossing, stormwater discharge permits, shall be submitted with the application;
3. **Subsection 17 - Vehicular Sediment Tracking** - Where construction vehicle access routes intersect paved or public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto paved or public road surface; the road surface shall be cleaned thoroughly at the end of each day. Sediment shall be removed from roads by shoveling or sweeping and transported to a sediment 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;
4. In subdivisions, the owner/developer of the subdivision shall be responsible for compliance with the standard set forth in section 3 until the streets are taken into the Virginia Department of Transportation's Secondary Road System for maintenance, and the plan submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto subdivision streets does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction. In addition, if individual lots or sections in a subdivision are being developed by a different owner, such owner shall be jointly and severally responsible with the owner/developer of the subdivision for achieving compliance with this minimum standard, and the erosion and sediment control plan, or "agreement in lieu of a plan," submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto the applicable roads does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction;
5. To assure proper stormwater drainage and site stabilization, the following policies are hereby adopted concerning all development. Prior to release of building permits, the

following infrastructure shall be completed and stabilized within the subdivision, subsection or phase as shown on the approved plan:

- a. Stormwater conveyance systems, including but not limited to culverts, road surface, curb and gutter, stormwater structures, drainage swales and ditches, channel linings and all cleared areas shall be stabilized, etc;
  - b. Submittal of a certified as-built plan of the subdivision, subsection or phase, which includes but is not limited to stormwater conveyance systems, curb and gutter, drainage swales and ditches, stormwater/sediment ponds, graded areas, etc. A letter from the engineer-of-record shall be included with the as-built plan which states that the subdivision has been constructed in accordance with the approved plan;
  - c. A proposed overall lot grading plan is required by Frederick County prior to the release of building permit(s) for subdivisions. This plan shall meet the intent of the original site plan submitted by the developer. It is required that the developer provide the builder/owner a copy of the original engineered site grading plan for the particular subdivision;
  - d. It will be necessary to submit a certified as-built plan for all lots on which proposed lot grading plans were required. This certified as-built plan shall indicate the following: properly annotated boundary lines; setback lines; proposed house footprint; offsets to house; existing grading; spot shots as necessary to show positive drainage; proposed driveway; proposed floor elevation to include basement, first floor and garage; and erosion and sediment controls, if required. The as-built plan shall be accompanied by a document prepared by a professional engineer or a certified land surveyor certifying that the as-built conditions meet the intent of the approved site grading plan. The proposed lot grading plan and the as-built survey shall be submitted to the Public Works Department prior to release of the final certificate of occupancy;
6. Before adopting or revising this ordinance, the County shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the County is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the County proposes or revises regulations that are more stringent than the state program;
  7. The program and regulations provided for in this chapter shall be made available for public inspection at the office of the Department of Public Works.

### **§143-165 Stormwater Management (SWM) Plan Requirements**

- A. As required in **§143-150**, a stormwater management plan shall be developed and referenced into the SWPPP;



B. In addition to the plan requirements outlined in §143-155 and §143-160, the stormwater management plan shall include the following:

1. A general description of the proposed stormwater management facilities, including:
  - a. Contact information including name, address, telephone number and parcel number of the property or properties affected;
  - b. Narrative that includes a description of current site conditions and final site conditions or if allowed by the VSMP authority, the information provided and documented during the review process that addresses the current and final site conditions;
  - c. General description of the proposed stormwater management facilities and mechanism through which the facilities will be operated/maintained after construction is complete; Information on type of stormwater facilities;
  - d. The location of stormwater facilities, including geographic coordinates;
  - e. The named surface waters to which the facility eventually drains;
  - f. Information on proposed stormwater management facilities, including (i) type of facilities; (ii) location, including geographic coordinates; (iii) acres treated; and (iv) surface waters or karst features into which facility will discharge;
  - g. Hydrologic/hydraulic computations, including runoff characteristics;
  - h. Documentation/calculations verifying compliance with water quality and quantity requirements of the regulations;
  - i. Map or maps of site that depicts topography of the site and includes:
    - a) Contributing drainage areas;
    - b) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, floodplains.
  - j. Soil types, geologic formations if karst features are present in the area, forest cover, other vegetative areas;
  - k. Current land use including existing structures, roads, locations of known utilities and easements;
  - l. Sufficient information on adjoining parcels to assess impacts of stormwater from the site on these parcels;

- m. Limits of clearing and grading, proposed drainage patterns on the site;
  - n. Proposed buildings, roads, parking areas, utilities, stormwater management facilities;
  - o. Proposed land use with tabulation of percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, roads and easements;
  - p. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria to the part to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities;
  - q. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff;
  - r. Information on type/location of stormwater discharges, information on features to which stormwater is discharged, including surface waters or karst features if present, and predevelopment/post development drainage areas.
2. All necessary documentation and calculations supporting the design and construction of the proposed stormwater management structures, including sufficient details such as cross sections, profiles, dimensions, grades, and other information as needed to ensure that the BMPs are built in accordance with the approved plans and BMP Design Standards and Specifications;
  3. Runoff Reduction Method Compliance Spreadsheet Summary Sheet;
  4. A landscaping plan prepared by an individual familiar with the selection of appropriate vegetation for the particular BMP (emergent and upland vegetation for wetlands, woody and/or herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater management facilities, etc.). The landscaping plan must also describe the maintenance of vegetation at the site and what practices should be employed to ensure that adequate vegetative cover is preserved;
  5. Identification of all easements provided for inspection and maintenance of stormwater management facilities in accordance with specifications in the Stormwater Management Design Manuals and the County requirements.
  6. When Applicable, a copy of the Frederick County SWM BMP Operation and Maintenance Agreement to be recorded in the local land records prior to plan approval. This may be submitted prior to plan approval;

7. When stormwater facilities are proposed on individual residential lots, a copy of the proposed Residential Lot BMP Inspection and Maintenance Agreement to be signed by the property owner upon settlement. This must be submitted prior to plan approval;
8. If an applicant intends to meet the water quality requirements of **Subsection C** of this section using offsite compliance options, a letter of availability from the offsite provider must be included, and the use of the offsite options shall be in accordance with the VSMP Regulations Offsite Compliance Options (9VAC25-870-69).

C. Stormwater management (SWM) plans shall demonstrate compliance with the following:

1. Stormwater runoff quality and runoff volume reduction criteria for new development;  
Reference: 9VAC25-870-63
2. Stormwater runoff quality criteria for development on prior developed lands;  
Reference: 9VAC25-870-63
3. Channel protection criteria;  
Reference: 9VAC25-870-66
4. Flood protection criteria;  
Reference: 9VAC25-870-66
5. Requirements for identifying, evaluating, and addressing increased volumes of sheet flow resulting from pervious or disconnected impervious areas or from physical spreading of concentrated flow through level spreaders.  
Reference: 9VAC25-870-66

D. Prior to release of the stormwater plan surety bond, two (2) sets of the construction record drawing or as-built of permanent stormwater management facilities, also referred to as “as-built plans,” in accordance with county requirements shall be submitted to the Administrator. The construction as-built shall be appropriately sealed and signed by a professional registered in the State pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1. of the Code of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan;

Reference: 9VAC25-870-108, 9VAC25-870-55 D.

E. Single family residential construction that is less than one acre of disturbance and part of a larger common plan of development may execute and implement a BMP

Implementation Plan as part of the SWPPP Template to demonstrate compliance with the practices and strategies identified in the larger common plan of development SWPPP;

F. Stormwater Management Facility Maintenance Agreements: Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance agreement that must be approved by the Administrator and recorded in the land record prior to issuance of a permit and contain the following provisions:

1. A copy of the County BMP Operation and Maintenance Agreement proposed for recordation in the local land records prior to plan approval to be signed by the property owner upon settlement shall be submitted with the plans;

Reference: 9VAC25-870-112.

2. Responsibility for the operation and maintenance of stormwater management facilities shall remain with the property owner or an owner's association and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the responsibility to successors in title;

Reference: 9VAC25-870-112.

3. Maintenance agreements shall be in accordance with the County requirements (BMP Inspection & Maintenance Program) and provide for all necessary access for inspections;

Reference: §62.1-44.15:39; 9VAC25-870-112.

4. Except as provided in **Subsection 5** below, maintenance agreements shall be enforceable (by the Administrator);

Reference: 9VAC25-870-112.

5. Individual on-lot stormwater facilities that are designed to primarily manage the runoff from the individual residential lot on which they are located require a County Residential Lot BMP Inspection & Maintenance Agreement acknowledging the presence, purpose, location, and basic maintenance requirements for the particular BMPs in accordance with County requirements;

Reference: 9VAC25-870-112

6. 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 State pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia;

7. Stormwater management plans for residential, commercial or industrial subdivisions are approved and govern the development of individual parcels within that plan, throughout the development life even if ownership changes.

Reference: §62.1-44.15:28.7

#### **§143-175 Pollution Prevention Plan (PPP)**

- A. A Pollution Prevention Plan (PPP) is required for all VSMP Activities as required in **§143-125**, and shall be developed for incorporation into the SWPPP;
- B. The PPP shall be developed in accordance with the County VSMP Manual to minimize the discharge of pollutants and the exposure of materials to stormwater, and prohibit illicit discharges from construction activities;
- C. The PPP shall be implemented and updated as outlined in **§143-205.C** and the County VSMP Manual (if adopted) as necessary throughout all phases of the land-disturbing activity to implement appropriate pollution prevention measures applicable to construction activities.

Reference: 9VAC25-870-56. Pollution prevention plans.

#### **§143-185 Review and Approval of Plans**

- A. Upon receipt of a plan for a permit and accompanying plans as required by **§143-150**, the Administrator shall determine the completeness of the application and notify the applicant within **15** calendar days if the submittal is considered incomplete;
- B. Once the applicant has been notified of a complete submittal, the Administrator shall have an additional **45** calendar days from the date of the communication for the review of the plans to determine compliance with the requirements of this ordinance, and to communicate to the applicant the approval or disapproval of the plans;
- C. If a determination of completeness is not made and communicated to the applicant within the 15 calendar days, the plans shall be deemed complete as of the date of submission and a total of 60 calendar days from the date of submission shall be allowed for the review of the plans;
- D. If the plans are not approved, the reasons for not approving the plans shall be provided in writing to the applicant;
- E. The Administrator shall review within 45 calendar days of the date of resubmission any plans that been previously disapproved;
- F. Unless otherwise indicated in the application, electronic communication shall be considered communication in writing.

Reference: §62.1-44.15:55B; §62.1-44.15:34A9VAC25-870-55 B9VAC25-870-108

### **§143-190 Pre-Construction Meeting Required**

No land disturbing activities shall commence until a Pre-Construction Meeting between the Administrator and the applicant, and the individual responsible for carrying out the plan has been conducted. The applicant shall notify the Administrator in advance to schedule the meeting on-site.

### **§143-195 Issuance, Time Limit, Modification, Maintenance, Transfer and/or Termination of the Frederick County Permit and the VSMP Authority Permit**

- A. Permit Issuance: Once the requirements for obtaining a County land-disturbing permit and coverage under the state general permit for discharges from construction activity (if applicable) have been met, including the receipt or verification of payment of all required permit fees in accordance with the fee schedule of **§143-235**, the Administrator will issue a Frederick County land disturbance permit and a VSMP Authority permit. Prior to the initiation of an application, by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50%, for a permit under this chapter, all delinquent real estate taxes and any other charges that constitute a lien on the subject property that are owed to the County and have been properly assessed against the subject property must be paid, unless otherwise authorized by the Treasurer; (Amended 09/12/2018)
- B. No transfer, assignment, or sale of the rights granted by virtue of a County land-disturbing permit shall be made unless a written notice of transfer and corresponding permit modification fee is filed with the Administrator and the transferee certifies agreement to comply with all obligations and conditions of the permit. The Administrator may require modification or revocation and reissuance of the VSMP Authority Permit to change the name of the permittee and incorporate such other requirements as may be necessary for the transfer;
- C. If land-disturbing activity has not commenced within 180 days of land-disturbing activity or VSMP authority permit issuance or ceases for more than 180 days, the Administrator may evaluate the existing approved ESC 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 previously filed ESC plan is determined to be inadequate a modified plan shall be submitted and approved prior to the resumption of land-disturbing activity;

Reference: 9VAC25-840-80. B

- D. VSMP Authority Permits are effective for a fixed permit cycle of 5 years. Activities requiring a VSMP permit may obtain coverage at any time during the 5-year permit cycle and must be renewed if the permit has not been terminated prior to the end of the cycle.

The annual permit maintenance fees in **§143-235** apply until the permit coverage is terminated or renewed;

- E. Land-disturbing activities for which VSMP Permit coverage was issued between July 1, 2009 and June 30, 2014 permit cycle may remain subject to the technical criteria of Part II C of the Virginia Stormwater Regulations for two additional permit cycles provided coverage under the original VSMP Permit is maintained. After two permit cycles have passed, or should the original VSMP Permit coverage not be maintained, portions of the project not under construction shall become subject to any new technical criteria adopted by the VSMP Authority after the original VSMP Permit coverage was issued;
- F. Land-disturbing activities for which VSMP Permit coverage was issued between July 1, 2009 and June 30, 2014 permit cycle may elect to modify the permit by paying the appropriate permit modification fee and request approval for compliance with the technical criteria of Part II B for any remaining portions of the project.

Reference: §62.1-44.15:249VAC25-870-47.

### **§143-200 Variances/Exceptions**

- A. Frederick County may grant exceptions or modify the ESC requirements of activities if they are deemed inappropriate or too restrictive for site conditions by granting a variance. A variance may be granted under the following conditions:
  - 1. At the time of plan submission, an applicant may request a variance from the requirements of an erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed 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 Administrator. The Administrator shall respond in writing either approving or disapproving such a request. If the Administrator does not approve a variance within 10 days of receipt of the request, the request shall be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation;
  - 3. The Administrator shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- B. The Administrator may grant exceptions to the Technical Criteria of **§143-165**, SWM Plan Requirements. An exception may be granted provided that:
  - 1. The exception is the minimum necessary to afford relief,

2. Reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of this chapter is preserved;
  3. Granting the exception will not confer any special privileges that are denied in other similar circumstances,
  4. Exception requests are not based upon conditions or circumstances that are self-imposed or self-created; and
  5. Economic hardship alone is not sufficient reason to grant an exception from these requirements.
- C. Under no circumstance shall an exception to the requirement that the land-disturbing activity obtain required VSMP permits be granted, nor shall the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website be approved.
- D. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options available as described in **§143-165B(8)** have been considered and found not available.

Reference: 9VAC25-8409VAC25-870-122

#### **§143-205 Amendments to Approved Plans**

- A. Amendments to an approved ESC plan may be made once the proposed change has been agreed to by the Administrator and the person responsible for carrying out the plan in the following cases:
1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
  2. Where the person responsible for carrying out the approved plan demonstrates that because of changed circumstances or for other reasons the approved plan cannot effectively be carried out, and proposed amendments to the plan are consistent with the requirements of this article.

Reference: §62.1-44.15:55 C

- B. Amendments to an approved SWM Plan may be made only after review and written approval by the Administrator. An approved plan may be modified in accordance with the following:
1. The person responsible for carrying out the approved plan demonstrates in writing to the Administrator that because of changed circumstances or for other reasons the approved plan cannot effectively be carried out, and has proposed amendments to the



- plan with all necessary calculations and documents consistent with the requirements of this chapter (refer to **§143-165**);
2. The Administrator shall have 60 calendar days to respond in writing either approving or disapproving such requests;
  3. Based on an inspection, the Administrator may require amendments to the approved stormwater management plan to address any deficiencies within a time frame set by the Administrator.

Reference: 9VAC25-870-108

- C. Amendments to an approved SWPPP may be required in order to reflect changes in the implementation an approved ESC or SWM Plan. In addition to the requirements of **Subsection A and B** of this section, the site operator shall document the implementation of the provisions of the SWPPP as follows:
1. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance that may have a significant effect on the discharge of pollutants from the construction activity and that has not been previously addressed in the SWPPP;
  2. The SWPPP must be amended if during inspections or investigations by the operator's qualified personnel, or by the Administrator, state or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in stormwater discharges from the construction site;
  3. Where revisions to the SWPPP include additional or modified control measures designed to correct problems identified, and where such revisions to the SWPPP require the Administrator's approval, the additional control measures shall be completed within seven calendar days of approval or prior to the next anticipated storm event. If implementation before the next anticipated storm event is impracticable, the situation shall be documented in the SWPPP and alternative control measures shall be implemented as soon as practicable;
  4. Revisions to the SWPPP must be dated and signed in accordance with Section III of the VSMP permit. Changes to any component of an approved SWPPP with VSMP Permit coverage that result in changes to stormwater management plans or require additional review by the Administrator shall be subject to permit modification fees set out in **§143-235**.

## **§143-210 Monitoring and Inspections During Activities**

### A. Erosion and Sediment Control

1. The responsible land disturber, as provided by §62.1-44.15:52, shall oversee and is responsible for carrying out the land-disturbing activity and provide for periodic

inspections of the land-disturbing activity. The County may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation;

2. The County shall periodically inspect the land-disturbing activity in accordance with 9VAC25-840-60 of the Virginia Erosion and Sediment Control Regulations to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The application for a permit shall include a provision for appropriate agents and employees of the County, at reasonable times, to go upon the property on which permission has been sought to conduct land-disturbing activities and to monitor such activities. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection;

If the 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 mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, by electronic mail to the address specified in the permit application, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

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

3. Upon issuance of an inspection report denoting a violation of Va. Code §62.1-44.15:55, -44.15:56, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the Administrator may issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

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

ordinance. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven days from the date of service pending application by the owner or permit holder for appropriate relief to the Circuit Court of the County. Said order shall be posted on the site where the disturbance is occurring and shall remain in effect until permits and plan approvals are secured.

The owner may appeal the issuance of an order to the Circuit Court of the County.

Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court of the County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the Administrator from taking any other action authorized by this ordinance.

## B. Stormwater

1. The VSMP Authority will inspect all regulated activities to ensure compliance with the approved ESC Plan in accordance with the County and state requirements. The owner, permittee or person responsible for carrying out the plan or agreement may be given notice of the inspection.

Reference §62.1-44.15:58.

2. The County requires that stormwater management facilities be inspected, and the construction of such facilities are certified in accordance with **Subsection D of §143-210**. The VSMP Authority may also inspect the construction of permanent stormwater management facilities at critical stages of construction and in accordance with the Virginia BMP Design Specifications to ensure compliance with the approved plans.

Reference §62.1-44.15:37.

3. The right-of-entry for the VSMP Authority to conduct such inspections shall be expressly reserved in the permit. The permit holder, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.

Reference §62.1-44.15:39 Right of entry

4. The County will accept the submittal of inspection reports certifying that the stormwater management facilities are being constructed in accordance with the approved plan conducted by:
  - a) A person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia;
  - b) A person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or
  - c) A person who holds a certificate of competence in Stormwater Inspection from the Board.

Reference §62.1-44.15:37.

5. The VSMP Authority will inspect all regulated activities covered by a VSMP authority permit to ensure the operator is conducting and documenting the operator inspections as required by the County and is appropriately updating the PPP as required by the County. The owner, permittee or person responsible for carrying out the plan or agreement may be given notice of the inspection.

Reference A, B, & C above: 9VAC25-870-114 A:

6. All activities covered by a VSMP Permit shall be inspected by the operator in accordance with the requirements of the County. The operator shall maintain records of inspections and maintenance to determine whether the measures required in the ESC plan are effective in controlling erosion and sedimentation and to ensure compliance with the approved plan. Records shall be made available to the Administrator or the VSMP Authority inspector upon request.
7. Prior to the release of any performance bonds or termination of the VSMP Authority Permit, the applicant shall submit the required as-built drawings for the stormwater management facilities. The site shall be surveyed to determine actual field conditions, and the approved plans as annotated to reflect actual field conditions shall constitute the as-built drawing. As-built drawings shall include the following:
  1. Storm sewer systems
    - i. The general location of all drainage structures.
    - ii. The storm structure top and all pipe invert elevations including end sections.
    - iii. Storm pipe size, material and percent grade between inverts from structure to structure.
    - iv. Spot elevations of the invert of all manmade ditches at 50-foot intervals.
    - v. Extent of all riprap outfall protection.
  2. Topographic survey of all constructed SWM/BMP facilities.

3. The location, size and/or material of all required BMP elements including but not limited to cleanouts, observation wells, overflow structures, gravel diaphragms, and flow spreaders.
4. Confirmation of the volume provided in all ponds and water quality structures. Deviations from the approved plans shall require new routings to confirm that the ponds will function as designed.
5. For residential projects, topographic survey of all disturbed common space areas to confirm that all slopes and swales are properly placed and that all drainage patterns have been established in accordance with the grading plan.
6. Detailed records of any variations of the work from the approved plans.

Reference 9VAC25-870-108

8. Reports; recordkeeping

- a) On a fiscal year basis (July 1 to June 30), a VSMP authority shall report to the department by October 1 of each year in a format provided by the department. The information to be provided shall include the following:
  - i. Information on each permanent stormwater management facility completed during the fiscal year to include type of stormwater management facility, geographic coordinates, acres treated, and the surface waters or karst features into which the stormwater management facility will discharge;
  - ii. Number and type of enforcement actions during the fiscal year; and
  - iii. Number of exceptions granted during the fiscal year.
- b) A VSMP authority shall keep records in accordance with the following:
  - i. Project records, including approved stormwater management plans, shall be kept for three years after state permit termination or project completion;
  - ii. Stormwater management facility inspection records shall be documented and retained for at least five years from the date of inspection;
  - iii. Construction record drawings shall be maintained in perpetuity or until a stormwater management facility is removed;
  - iv. All registration statements submitted in accordance with 9VAC25-870-59 shall be documented and retained for at least three years from the date of project completion or state permit termination;

**§143-215 Monitoring and Inspections of Permanent Stormwater Management Facilities**

- A. Owners of stormwater management facilities shall be responsible for conducting inspections and performing maintenance in accordance with the recorded Stormwater BMP Maintenance Agreement as described in **§143-165** and in accordance with county requirements. Regarding individual residential lots, 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. Provisions for this are addressed in the County's SWP BMP Inspection and Maintenance Program manual;
- B. If a recorded instrument is not required pursuant to section **§143-215.A**, 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 methods 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;

Reference 9VAC25-870-112

- C. The Administrator will ensure that all stormwater management facilities are being inspected and maintained according to the following:
  - 1. The Administrator shall track the 5-year frequency comprehensive inspection report submittals as required by the recorded maintenance agreement and in accordance with County requirements. The Administrator shall conduct maintenance inspections at a minimum of once every 5 years for certain BMPs as defined by County requirements;
  - 2. The right-of-entry for the Administrator to conduct such inspections shall be expressly reserved in the Maintenance Agreements. The owner, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.
- D. The Administrator shall notify the property owner or owner's association in writing in accordance with **§143-225.A** to the address as identified in the SWM BMP Inspection and Maintenance Agreement when a determination has been made that the stormwater management facility is in disrepair or is not functioning as intended. The notice shall specify the measures needed to comply with the approved maintenance plan and shall specify the time within which such measures shall be completed. If the responsible party fails to perform such maintenance and repair, the county shall have the authority to initiate enforcement action in accordance with **§143-225.D** and perform the work and recover the costs from the responsible party.

#### **§143-225 Enforcement; violations and penalties**

A. Erosion and Sediment Control:

1. Violators of this ordinance shall be guilty of a Class I misdemeanor;
2. Any person who violates any provision of Va. Code §§ 62.1-44.15:55, 62.1-44.15:56 may, upon a finding of the District Court of the County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, 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. 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 \$10,000, 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. Any such civil penalties shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under **Subsection A** of §62.1-44.15:63;
3. The Administrator the owner or property which has sustained damage, or which is in imminent danger of being damaged, may apply to the Circuit Court of the County to enjoin a violation or a threatened violation of Va. Code §62.1-44.15:55, 62.1-44.15:56, without the necessity of showing that an adequate remedy at law does not exist.

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

4. In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to the County in a civil action for damages;
5. 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.

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

6. 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, or order of the VESCP authority the County 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**;
7. The Commonwealth's Attorney shall, upon request of the County, take legal action to enforce the provisions of this ordinance;
8. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages;

#### B. Stormwater

1. If, during inspections at any stage of the land-disturbing activity, the Administrator determines that the operator has failed to comply with the approved plan, including but not limited to failure to install or properly install stormwater BMPs or erosion and sediment controls, the Administrator shall serve a Notice to Comply upon the permittee or person responsible for carrying out the permit conditions as follows:
  - i. Certified mail return receipt requested, sent to the address specified by the owner or permittee in his application or plan certification;
  - ii. Electronic mail to the address specified in the permit application; or
  - iii. Delivery at the site of the activities to the agent or employee supervising such activities.
2. The notice shall specify the measures necessary to comply with the plan or agreement in lieu of a plan and shall specify the time within which such measures shall be completed.
3. Stop Work Order:
  - a) If a permittee fails to comply with a notice to comply issued in accordance with **Subsection B (1)** within the time specified, the Administrator may issue an order requiring the owner, permittee, or person responsible for carrying out the approved plan, to cease all land-disturbing activities until the violation of the permit has ceased or the specified corrective actions have been taken. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the registration



statement, by electronic mail to the address specified in the permit application, or by personal delivery by an agent of the VSMP authority or Department.

- b) In addition to the cessation of all activities as described in a above, the permittee may also be subject having the VSMP Authority permit revoked; and furthermore, he shall be deemed to be in violation of this ordinance and, upon conviction, shall be subject to the penalties as provided in the Code of Virginia or by this ordinance;

Reference: §62.1-44.15:63.; §62.1-44.15:48

- c) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in surface waters within the watersheds of the state, or where the activities have commenced without an approved plan, agreement in lieu of a plan or any required permits, such an order may be issued without regard to whether the owner or permittee has been issued a notice to comply;
- 4. If, at any stage of the activity, the VSMP Authority determines that the physical conditions on the site are not as stated or shown on the approved erosion and sediment control plan or stormwater management plan, or the county determines that the storm drainage system or stormwater management facility is inadequate or not constructed as shown on the approved stormwater management final plan, the VSMP Authority may refuse to approve further work and the county may revoke existing permits or approvals until a revised stormwater management final plan has been submitted and approved;
- 5. Commencing Activities without an Approved Plan or a Permit:
    - a. If activities have commenced without an approved plan, agreement in lieu of a plan, or a VSMP Authority Permit where required, a stop work order may be issued requiring that all activities be stopped until an approved plan, an agreement in lieu of a plan or any required permits are obtained;
    - b. The stop work order shall remain in effect for a period of seven calendar days from the date of service pending application by the Administrator or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation is alleged to have occurred. If the alleged violator has not obtained an approved plan, agreement in lieu of a plan or any required permits within seven days from the date of service of the order, the director may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan, agreement in lieu of a plan or any required permits have been obtained. The order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the County or by electronic mail to the address specified in the permit application;

- c. The owner may appeal the issuance of an order to the circuit court.
6. Maintenance of permanent stormwater facilities
    - a. If during periodic inspections to ensure that stormwater management facilities are being adequately maintained as designed, the VSMP Authority identifies operational deficiencies and/or determines that the owner of the stormwater management facility has failed to perform maintenance or conduct maintenance inspections in accordance with the recorded SWM BMP Maintenance and Inspection agreement, the VSMP Authority shall notify the person or organization responsible for carrying out the requirements of the agreement. The notice shall specify the deficiencies, the corrective actions required to restore the facility, and the time frame within which the corrective actions shall be completed;
    - b. If the individual or organization fails to comply with the notice within the time specified, the VSMP Authority may initiate informal and/or formal administrative enforcement procedures including but not limited to directives issued by the Board in accordance with §62.1-44.15:25, or civil penalties in accordance with this ordinance and §62.1-44.15:48.
  7. 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 VSMP Authority or any provisions of this chapter may be compelled in a proceeding instituted in any appropriate court by the VSMP Authority to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Nothing in this section shall prevent the VSMP Authority from taking additional enforcement action permitted by state law;
  8. Any person who violates any provision of this chapter or of any regulations or ordinances, or standards and specifications adopted or approved hereunder, including those adopted pursuant to a VSMP permit, or who fails, neglects, or refuses to comply with any order of the VSMP Authority, the Department, the board, or court, 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;

Reference: §62.1-44.15:48Code of Virginia

- a. Violations for which a penalty may be imposed under this subsection shall include but not be limited to the following:
  - iv. No permit registration;
  - v. No SWPPP;

- vi. Incomplete SWPPP;
  - vii. SWPPP not available for review;
  - viii. Failure to install stormwater BMP or Erosion and Sediment Controls;
  - ix. Stormwater BMPs improperly installed or maintained;
  - x. Operational deficiencies;
  - xi. Failure to conduct required inspections;
  - xii. Incomplete, improper, or missed inspections;
  - xiii. Discharges not in compliance with the requirements of the VSMP Construction General Permit; and
  - xiv. No approved Erosion and Sediment Control Plan.
- b. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
  - c. In imposing a civil penalty pursuant to this subsection, the court may consider the degree of harm caused by the violation and the economic benefit to the violator from noncompliance;
  - d. Any civil penalties assessed by a court because of a summons issued by the County shall be paid into the treasury of the County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the County and abating environmental pollution therein in such manner as the court may, by order, direct;
9. Notwithstanding any other civil or equitable remedy provided by this section, any person who willfully or negligently violates any provision of this chapter, any order of the County or the Department, 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 and a fine of not less than \$2,500 nor more than \$32,500, either or both.

Reference: §62.1-44.15;48

### **§143-230 Hearings**

- A. Any permit applicant, permittee, or person subject to the Frederick County land-disturbing permit, VSMP authority permit, or state permit requirements under this article aggrieved by any action of the Department of Public Works taken without a formal

hearing, or by inaction of the Department of Public Works may demand in writing a formal hearing by the County Board of Supervisors, provided a petition requesting such hearing is filed with the Board of Supervisors within 30 days after notice of such action. Any hearings conducted by the Board of Supervisors shall be in accordance with §62.1-44.15:45 of the Code of Virginia. Hearings must be conducted by the Board of Supervisors at a regular or special meeting. In reviewing the agent's actions, the County Board of Supervisors shall consider evidence and opinions, and the County Board of Supervisors may affirm, reverse or modify the action. Verbatim record of proceedings must be taken and filed with the County Board of Supervisors. The County Board of Supervisors decision shall be final, subject only to review by the Circuit Court of the County.

Reference: Right to hearing §62.1-44.15:45. Hearings

### **§143-232 Appeals**

- A. Any permittee or party aggrieved by a state permit or enforcement decision of the Frederick County Public Works under this article, or any person who has participated, in person or by submittal of written comments, in the public comment process related to a final decision of the Department of Public Works or Board of Supervisors under this article, whether such decision is affirmative or negative, is entitled to judicial review thereof in accordance with the provisions of the Administrative Process Act (§2.2-4000 et seq.) if such person meets the standard for obtaining judicial review of a case or controversy pursuant to Article III of the Constitution of the United States. Final decisions shall be subject to review and appeal to the Circuit Court of the County, 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 the land disturbance activity occurs or is proposed to occur. Unless otherwise provided by law, the circuit court shall conduct such review in accordance with the standards established in § 2.2-4027, and the decisions of the circuit court shall be subject to review by the Court of Appeals. A person shall be deemed to meet such standard if (i) such person has suffered an actual or imminent injury that is an invasion of a legally protected interest and that is concrete and particularized; (ii) such injury is traceable to the decision of the Department or the Board and not the result of the independent action of some third party not before the court; and (iii) such injury will likely be redressed by a favorable decision by the court.

### **§143-235 Fees**

- A. The Board of Supervisors, by resolution, may establish a schedule of fees for the application, modification, transfer and maintenance of stormwater/erosion and sediment control permits and plans.
- B. The fee for the Frederick County Permit and fees for coverage under the VSMP Authority Permit shall be imposed in accordance with Table 1. When a site or sites have been purchased for development within a previously permitted common plan of

development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1.

**Reference:** Part XIII of the VSMP Regulations

Table 1: Fees for coverage under the VSMP Construction General Permit/ VESCP

Type of Permit	Total Fee Paid by Applicant	Portion to be Paid to DEQ
VESCP permit fee (all land disturbing activities, excluding individual single-family dwellings)	\$500 + \$100/acre	N/A
VESCP permit fee (land disturbing activities begun without permit, excluding individual single-family dwellings)	\$1,500 + \$200/acre	N/A
VESCP permit fee for single family detached/attached residential structures within or outside a common plan of development or sale with land disturbance acreage less than five (5) acres)	\$290	N/A
VESCP permit fee (single family dwellings begun without permit)	\$580	N/A
VESCP single family dwelling re-inspection fee	\$75	N/A
VSMP 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)	\$2,700	\$756
VSMP 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)	\$3,400	\$952
VSMP 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)	\$4,500	\$1,260
VSMP 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)	\$6,100	\$1,708
VSMP 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

C. Fees for the modification or transfer of coverage under the VSMP Construction General Permit issued by the Administrator shall be imposed in accordance with Table 2. If the permit modifications result in changes to stormwater management plans that require

additional review by the Administrator, such reviews shall be subject to the fees set out in Table 2 based on the total disturbed acreage of the site. Modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in Table 1.

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

Type of Permit	Fee Amount
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, (also includes single-family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres)	\$20
VSMP 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
VSMP 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
VSMP 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
VSMP 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
VSMP 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

D. Permit maintenance fees. (9VAC25-870-830):

1. 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 VSMP Authority Permit, these fees shall apply until the permit coverage is terminated;
2. VSMP Authority Permit coverage maintenance fees shall be paid annually to the VSMP Authority, by the anniversary date of VSMP Authority General Permit coverage, in accordance with Table 3. No VSMP Authority permit will be reissued or automatically continued without payment of the required fee.

VSMP Authority permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

Table 3: VSMP Authority Permit Maintenance Fees

Type of Permit	Fee Amount
VSMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, also includes single family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres.)	\$50
VSMP 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)	\$400
VSMP 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)	\$500
VSMP 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)	\$650
VSMP 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)	\$900
VSMP 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)	\$1,400

E. The fees set forth in **Subsections A-C**, above, shall apply to:

1. All persons seeking coverage under the VSMP Authority Permit or VESCP permit if VSMP not required;
2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a VSMP Authority Permit;
3. Persons whose coverage under the VSMP Authority Permit has been revoked shall reapply for an Individual Permit for Discharges of Stormwater from Construction Activities;
4. Permit and permit coverage maintenance fees outlined under **Subsection C** may apply to each VSMP Authority Permit holder;

- F. No VSMP Authority Permit application fees will be assessed to Permittees whose permits are modified or amended at the initiative of the VSMP Authority, excluding errors in the registration statement identified by the Director or errors related to the acreage of the site;
- G. All incomplete VSMP permit fee payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete permit fee payments. Interest may be charged for late permit fee payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated monthly at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The Administrator shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount;

### **§143-240 Performance Bonds**

- A. Prior to the issuance of any permit, the owner or permittee shall execute and file with the Administrator a Frederick County Erosion and Sediment Control and Stormwater Management Performance Agreement and cash escrow or irrevocable letter of credit (or other form of a performance bond as approved by the County attorney) in an amount determined in accordance with the Frederick County Bond Estimate Worksheet which shall be equal to the approximate total cost of providing erosion and sediment control and stormwater quality and quantity improvements as required by this ordinance and shown on the approved plans in addition to a 25% contingency of the total bond amount.
- B. The Frederick County Erosion and Sediment Control and Stormwater Management Performance Agreement and performance bond is to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice as outlined in **§143-225**, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions because of his land-disturbing activity. If the County takes such action upon such failure by the applicant, the County 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.
- C. Upon successful completion of the land-disturbing activity, to include submittal of the construction as-built drawings of permanent stormwater management facilities described in **§143-165** and prior to termination of the VSMP Permit, the owner or permittee must provide written notification to the County. Upon verification of adequate stabilization of land disturbing activity in the project or any section thereof, the Administrator shall reduce, return, or terminate the required bond, cash escrow or irrevocable letter of credit to the owner within 60 days.
- D. If the applicant/owner fails to comply with the approved SWPPP as documented through the site inspections described in, and after proper notification, the Administrator may determine that the performance bond or escrow may be used to execute the plan.



Reference: §62.1-44.15:34; 9VAC25-870-104 D

**§143-245 Duration of Permit**

- A. Any land disturbance permit granted pursuant to this section shall be in effect for no longer than five (5) years after the date of issuance. In addition, any permit granted by this section shall automatically expire as of the date of expiration for, or termination of any financial guarantee tendered by the applicant. If a permitted project is not completed within the five-year time frame, then the applicant must re-apply or appeal in writing to the Director for an extension of the grading permit period not to exceed an additional six months. Once a grading permit has been approved in writing by the County, the applicant shall have a period of six months (180 days) from the date of approval to submit and receive County approval of collateral for the project or the permit shall be considered expired.

**MEMORANDUM**

**TO:** Public Works Committee

**FROM:** Kevin C. Alderman, District Manager, Shawneeland Sanitary District

**DATE:** May 18, 2021

**SUBJECT:** Request for Discussion

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In the FY22 budget the Sanitary District of Shawneeland has proposed a Tar & Chip project in the amount of \$159,983.00. This project will cover 63,993 square yards or 5.46 miles of main trails in Shawneeland.

During the May 3<sup>rd</sup> SSDAC meeting it was requested from a couple committee members that we get pricing for an asphalt overlay on the main trails in lieu of the tar & chip project as planned.

The Tar & Chip process is called double seal. The 1<sup>st</sup> layer consists of 0.3 gallons of CRS2L liquid asphalt topped with 30 pounds of #78 stone per square yard. The 2<sup>nd</sup> layer consists of 0.2 gallons of CRS2L liquid asphalt topped with 25 pounds of #8 stone per square yard. This process produces about 0.5" of thickness.

We are currently requesting quotes for the cost of doing an asphalt overlay on about 4 miles of main trails. The asphalt overlay would consist of 1.5" of SM9.5A asphalt then a 1' wide layer of shoulder stone would have to be placed in order to protect the edges of the asphalt from cracking and breaking off.

The Shawneeland Sanitary District Advisory Committee is requesting a discussion from the Public Works Committee regarding paving the roads in Shawneeland versus the tar & chip that has been done in the past.

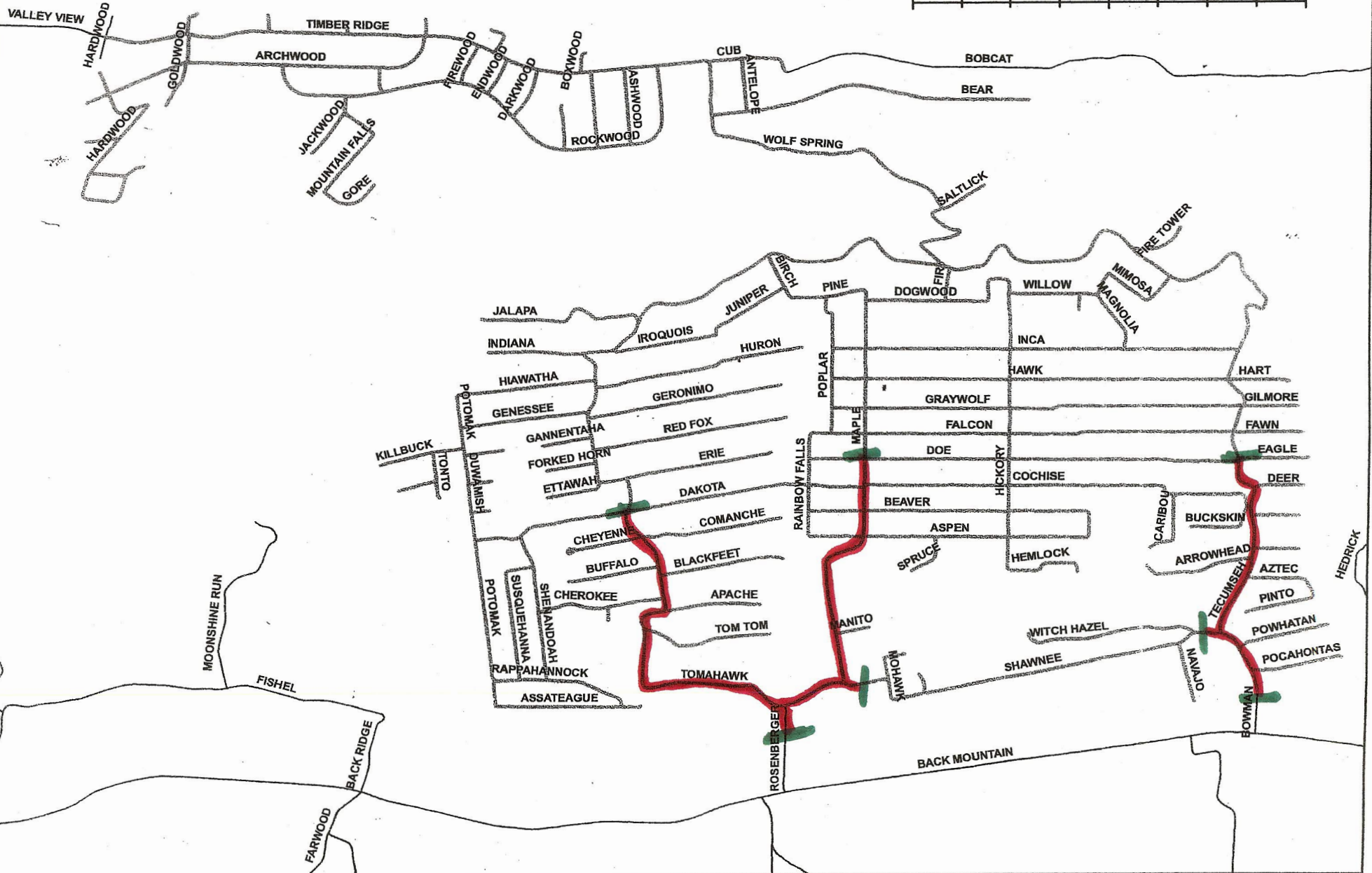
If there are any questions concerning the matter, please do not hesitate to contact me.



cc: KCA/pms  
cc: file

# SHAWNEELAND

FREDERICK COUNTY, VA

Frederick County GIS  
107 N Kent St  
Winchester, VA 22601



 SM 9.5 A  
 Milling Required

Memorandum for Record

6 May 2021

Subject: Carry Forward of Funds from Fiscal Year 2020-2021 Budget to Fiscal Year 2021-2022 Budget

Director of Public Works  
Frederick County Virginia  
ATTN Joe Wilder

Dear Mr. Wilder,

The Shawneeland Sanitary District Advisory Committee (SSDAC) is requesting that an amount of \$300,000.00 be carried forward from the remaining funds of the FY 2020-2021 Shawneeland Sanitary District budget, to the FY 2021-2022 budget.

The intent of this request is to ensure adequate funds are available to pursue the possible asphalt of several main roads within the Shawneeland community.

This request was discussed at the quarterly SSDAC meeting on 3 May, 2021. All committee members were present and concurred with this course of action.

If you have any questions, please let me know.

Sincerely,

Kenneth G. Baker  
SSDAC Chairman

Copy Furnished:  
Kevin C. Alderman, District Manager, Shawneeland Sanitary District

# BID TABULATION FORM

Pre-Bid Mandatory  YES  NO

Bid #	2021-12-AM			Project Name:	Bryarly School Lot Sale		
Department	Issue Date	Bid Opening Date	Bid Opened By				
ADM / PW		1/30/2021	Missi Neal, Purchasing Manager				

Enter Company Name	Price or NA	✓ = Yes / Complete; X = No/Incomplete					
Bidder Company Name	Base Bid	Discounts offered	Meeting Attendance				
VA Farm Market	61,000		✓				
Old Town Tree	92,100						
Winchester Equipment	101,750		✓				
AVERAGE:	#DIV/0!	Number of Bids:		0			

**Notes:** The County has not checked the tabulations for errors or made determinations that the bids meet the requirements and makes no claim that these are anything other than the prices entered and read aloud at the public bid opening. In case of any conflict, original bid submittals shall govern. Awards shall be made as outlined in the IFB to the lowest priced responsive and responsible vendor. Missing items may be requested after further review of bids



**BID FORM**

(Completed Form Shall Be Submitted as Bid Cover Pages)

<b>Bid Number:</b>	IFB-2021-12-ADM
<b>Title:</b>	Solicitation of Offers to Purchase Former Bryalry School Lot
<b>Bids Due:</b>	April 30, 2021, at 2:00p.m., local time.

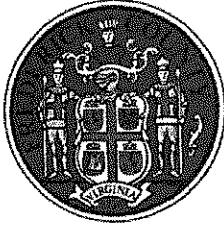
BIDDER INFORMATION	
<b>Name</b>	C. Joe Lizer
<b>Mailing Address</b>	145 Indian Hollow Road Winchester VA 22603
<b>Telephone Number</b>	(540) 665-9602
<b>Email Address</b>	joelizer@msn.com
<b>Signature</b>	

In accordance with this solicitation, the above-named individual (the Bidder) offers to purchase the property described herein for the amount of:

Sixty one thousand Dollars (\$ 61,000<sup>00</sup>)

and if his/her bid is accepted by the County, the bidder will execute the AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE included in this solicitation.

IF there is a higher bid, I agree to pay Five thousand dollars  
(\$5,000<sup>00</sup>) more than the highest bid, to a maximum of  
Eighty thousand Dollars (\$80,000<sup>00</sup>)



**BID FORM**

(Completed Form Shall Be Submitted as Bid Cover Pages)

<b>Bid Number:</b>	IFB-2021-12-ADM
<b>Title:</b>	Solicitation of Offers to Purchase Former Bryalry School Lot
<b>Bids Due:</b>	April 30, 2021, at 2:00p.m., local time.

BIDDER INFORMATION	
<b>Name</b>	Benjamin Owens Heslep
<b>Mailing Address</b>	1446 Greystone Terrace Winchester, VA 22601
<b>Telephone Number</b>	( 540 ) 336 - 5415
<b>Email Address</b>	Oldtowntree100@gmail.com
<b>Signature</b>	

In accordance with this solicitation, the above-named individual (the Bidder) offers to purchase the property described herein for the amount of:

Forty Two Thousand One Hundred Dollars (\$ 42,100.00 ),

and if his/her bid is accepted by the County, the bidder will execute the AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE included in this solicitation.



**BID FORM**

(Completed Form Shall Be Submitted as Bid Cover Pages)

<b>Bid Number:</b>	IFB-2021-12-ADM
<b>Title:</b>	Solicitation of Offers to Purchase Former Bryalry School Lot
<b>Bids Due:</b>	April 30, 2021, at 2:00p.m., local time.

<b>BIDDER INFORMATION</b>	
<b>Name</b>	WECO AP, LLC
<b>Mailing Address</b>	c/o Winchester Equipment Co. 121 Indian Hollow Rd Winchester, Virginia 22603
<b>Telephone Number</b>	( 540 ) 667 - 2244 (ext 117)
<b>Email Address</b>	Scott.Carnell@winchesterequipment.com
<b>Signature</b>	<i>Scott Carnell</i> Scott # Carnell

In accordance with this solicitation, the above-named individual (the Bidder) offers to purchase the property described herein for the amount of:

One Hundred One Thousand Seven Hundred Fifty                      Dollars (\$ 101,750.00 ),

and if his/her bid is accepted by the County, the bidder will execute the AGREEMENT FOR PURCHASE AND SALE OF REAL ESTATE included in this solicitation.




**COUNTY of FREDERICK**
**Department of Public Works**

540/665-5643

FAX: 540/678-0682

**MEMORANDUM**

**TO:** Public Works Committee  
**FROM:** Joe C. Wilder, Director of Public Works *JCW*  
**SUBJECT:** Monthly Tonnage Report - Fiscal Year 19/20  
**DATE:** May 4, 2021

The following table shows the tonnage for the months of July 2020 through June 2021. The average monthly tonnage for fiscal years 03/04 through 20/21 are also listed below:

**FY 03-04:** AVERAGE PER MONTH: 16,348 TONS (UP 1,164 TONS)  
**FY 04-05:** AVERAGE PER MONTH: 17,029 TONS (UP 681 TONS)  
**FY 05-06:** AVERAGE PER MONTH: 17,785 TONS (UP 756 TONS)  
**FY 06-07:** AVERAGE PER MONTH: 16,705 TONS (DOWN 1,080 TONS)  
**FY 07-08:** AVERAGE PER MONTH: 13,904 TONS (DOWN 2,801 TONS)  
**FY 08-09:** AVERAGE PER MONTH: 13,316 TONS (DOWN 588 TONS)  
**FY 09-10:** AVERAGE PER MONTH: 12,219 TONS (DOWN 1,097 TONS)  
**FY 10-11:** AVERAGE PER MONTH: 12,184 TONS (DOWN 35 TONS)  
**FY 11-12:** AVERAGE PER MONTH: 12,013 TONS (DOWN 171 TONS)  
**FY 12-13:** AVERAGE PER MONTH: 12,065 TONS (UP 52 TONS)  
**FY 13-14:** AVERAGE PER MONTH: 12,468 TONS (UP 403 TONS)  
**FY 14-15:** AVERAGE PER MONTH: 13,133 TONS (UP 665 TONS)  
**FY 15-16:** AVERAGE PER MONTH: 13,984 TONS (UP 851 TONS)  
**FY 16-17:** AVERAGE PER MONTH: 14,507 TONS (UP 523 TONS)  
**FY 17-18:** AVERAGE PER MONTH: 15,745 TONS (UP 1,238 TONS)  
**FY 18-19:** AVERAGE PER MONTH: 16,594 TONS (UP 849 TONS)  
**FY 19-20:** AVERAGE PER MONTH: 16,973 TONS (UP 379 TONS)  
**FY 20-21:** AVERAGE PER MONTH: 16,367 TONS (DOWN 380 TONS)

MONTH	FY 2018-2019	FY 2019-2020	FY 2020-2021
JULY	17,704	17,956	17,677
AUGUST	18,543	17,267	16,517
SEPTEMBER	14,799	17,985	16,789
OCTOBER	18,158	22,528	20,127
NOVEMBER	15,404	17,304	15,432
DECEMBER	14,426	14,362	15,496
JANUARY	13,973	14,913	14,480
FEBRUARY	12,764	13,380	12,030
MARCH	17,079	15,533	18,758
APRIL	20,313	17,475	18,627
MAY	19,443	17,010	
JUNE	16,519	17,968	

RECYCLING REPORT - FY 20/21

<u>MONTH</u>	<u>GLASS</u>	<u>PLAST</u>	<u>AL</u> <u>CANS</u>	<u>STEEL</u> <u>CANS</u>	<u>PAPER</u>	<u>OCC</u>	<u>SHOES/TEX</u>	<u>ELEC</u>	<u>SCRAP</u>	<u>TOTAL</u>
JUL	0	22,360		15,900	62,440	136,120	3,240	28,440	289,478	557,978
AUG		28,880		11,240	73,280	128,260	4,560		265,740	511,960
SEP		23,480		12,380	62,540	129,600	2,840	50,800	274,820	556,460
OCT		18,680		12,020	64,040	125,982	5,660		283,901	510,283
NOV		17,760		11,760	42,680	120,440		55,900	243,340	491,880
DEC		31,520		12,280	69,460	142,000	4,120	33,620	242,100	535,100
JAN		21,840		15,260	62,280	119,020	3,360	27,760	180,940	430,460
FEB		17,000		6,440	34,460	107,480	3,320	29,200	117,920	315,820
MAR		25,360		20,500	89,640	144,800	4,240	25,960	290,520	601,020
APR		25,440		11,240	46,860	147,900	5,280	27,600	286,961	551,281
MAY										0
JUN										0
<b>TOTAL</b>	0	232,320	0	129,020	607,680	1,301,602	36,620	279,280	2,475,720	5,062,242
<b>FY 19-20</b>	0	454,859	37,370	108,974	854,350	1,174,530	55,100	391,900	3,209,400	6,286,483
<b>FY 18-19</b>	0	430,963	47,082	96,494	998,815	1,243,232	83,104	467,720	2,909,857	6,277,267
<b>FY 17-18</b>	0	465,080	53,224	94,530	1,066,300	1,080,087	37,260	536,420	2,874,709	6,207,610
<b>FY 16-17</b>	372,600	430,435	41,002	89,976	1,082,737	1,009,153	37,220	495,500	2,687,241	6,245,864
<b>FY 15-16</b>	919,540	428,300	52,077	97,252	1,275,060	974,493	48,820	480,400	2,376,344	6,652,286
<b>FY 14-15</b>	895,600	407,703	40,060	97,515	1,272,660	893,380	49,440	532,283	1,890,729	6,079,370
<b>FY 13-14</b>	904,780	417,090	39,399	99,177	1,281,105	902,701	37,800	611,580	1,639,225	5,932,937
<b>FY 12-13</b>	913,530	410,338	45,086	102,875	1,508,029	878,450	39,700	502,680	1,321,938	5,722,626
<b>FY 11-12</b>	865,380	398,320	43,884	99,846	1,492,826	840,717	37,920	484,600	1,432,678	5,696,171
<b>FY 10-11</b>	949,185	378,452	42,120	98,474	1,404,806	824,873	41,700	467,920	1,220,107	5,427,637
<b>FY 09-10</b>	1,123,671	370,386	42,844	96,666	1,235,624	671,669	21,160	435,680	1,348,398	5,346,098
<b>FY 08-09</b>	762,810	322,928	23,473	55,246	1,708,302	564,957	28,780	404,760	1,097,151	4,968,407
<b>FY 07-08</b>	794,932	284,220	15,783	40,544	1,971,883	545,692	0	498,110	1,172,880	5,324,044
<b>FY 06-07</b>	600,464	200,720	11,834	29,285	1,684,711	441,321	0	382,574	550,070	3,900,979
<b>FY 05-06</b>	558,367	190,611	12,478	28,526	1,523,162			381,469	204,220	2,898,833
<b>FY 04-05</b>	549,527	193,224	11,415	27,525	1,552,111			273,707	25,080	2,632,589
<b>FY 03-04</b>	541,896	174,256	11,437	31,112	1,443,461			156,870	336,230	2,695,262
<b>FY 02-03</b>	413,627	146,770	9,840	23,148	1,381,195			62,840	171,680	2,209,100
<b>FY 01-02</b>	450,280	181,040	10,565	25,553	1,401,206			54,061	58,140	2,180,845
<b>FY 00-01</b>	436,615	198,519	10,367	24,988	1,759,731				9,620	2,439,840
<b>FY 99-00</b>	422,447	177,260	10,177	22,847	1,686,587				44,180	2,363,498
<b>FY 98-99</b>	402,192	184,405	9,564	22,905	1,411,950				48,810	2,079,826
<b>FY 97-98</b>	485,294	136,110	13,307	29,775	1,830,000					2,494,486
<b>FY 96-97</b>	373,106	211,105	23,584	46,625	1,690,000					2,344,420
<b>FY 95-96</b>	511,978	167,486	28,441	44,995	1,553,060					2,305,960
<b>TO DATE</b>	14,247,821	6,009,678	548,737	1,234,855	33,150,206	8,547,406	342,540	6,225,034	17,634,721	87,941,078

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2020-2021

Attachment 7

DOG REPORT

MONTH	ON HAND AT FIRST OF MONTH	RECEIVED AT KENNEL	BROUGHT IN BY ACO	BITE CASES	BORN AT KENNEL	ADOPTED	RECLAIMED	DISPOSED	DIED AT KENNEL	ESCAPED/ STOLEN	CARRIED OVER NEXT MONTH
JULY	23	20	33	2	0	17	22	5	0	0	34
AUG	34	6	22	3	0	19	17	3	0	0	26
SEP	26	3	23	0	0	11	20	1	0	0	20
OCT	20	14	25	1	0	18	21	2	0	0	19
NOV	19	7	27	2	0	9	24	2	0	0	20
DEC	20	16	21	1	0	8	24	0	0	0	26
JAN	26	15	18	0	0	19	20	0	0	0	20
FEB	20	7	17	0	0	5	16	2	0	0	21
MAR	21	24	41	0	0	18	34	1	2	0	31
APR	31	17	37	2	0	25	32	1	0	0	29
MAY											
JUN											
TOTAL	240	129	264	11	0	149	230	17	2	0	246

In the month of April - 87 dogs in and out of kennel. 3 dogs transferred to other agencies.

## FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2020-2021

## CAT REPORT

MONTH	ON HAND AT FIRST OF MONTH	RECEIVED AT KENNEL	BROUGHT IN BY ACO	BITE CASES	BORN AT KENNEL	ADOPTED	RECLAIMED	DISPOSED	DIED AT KENNEL	ESCAPED/ STOLEN	CARRIED TO NEXT MONTH
JULY	30	54	8	1	0	43	1	3	0	0	46
AUG	46	38	5	2	0	32	1	1	0	0	57
SEP	57	52	11	5	5	45	3	2	1	0	79
OCT	79	52	5	3	0	47	3	3	1	0	85
NOV	85	38	6	1	0	35	2	9	0	0	84
DEC	84	36	7	1	5	55	0	2	0	0	76
JAN	76	19	2	1	6	57	0	1	0	0	46
FEB	46	9	3	1	0	16	0	0	1	0	42
MAR	42	17	5	0	0	30	2	1	0	0	31
APR	31	69	5	0	0	28	0	4	1	0	72
MAY											
JUN											
TOTAL	576	384	57	15	16	388	12	26	4	0	618

In the month of April - 105 cats in and out of shelter. 19 cats transferred to other agencies.

## Shawneeland Sanitary District Advisory Committee - Minutes of May 3, 2021

The meeting was called to order at 7:00pm.

Those in attendance were Ken Baker, Barry Van Meter, Jeff Stevens, George Bishop, Jason Croasdale (via phone), Kevin Alderman, and Director of Public Works, Joe Wilder. Supervisor Shawn Graber and Michelle Springer were absent.

Due to the Coronavirus pandemic social distancing guidelines, residents were unable to sit in on the meeting but could wait outside till their turn to enter the building and speak on their concerns.

Ken called for approval/correction of the February meeting minutes. The minutes passed unanimously.

### Manager's Report:

See Attached Manager's Report. **(Attachment A)**

### New Business:

#### Tiny Homes:

- Ken Baker spoke on the concern that realtors are telling prospective residents that they can put tiny homes in Shawneeland. This is something we need to be cognitive of tiny homes in Shawneeland. As of right now there are as many as 25 tiny homes in Shawneeland. George Bishop asked which realtors are giving this information. Ken did not have specific realtors' names.

#### Video/Telecommunications:

- Jason has done a great job handling the video and putting it on Facebook. The video helps get the word out and to get more involvement from the residents. We would like to work with Joe Wilder to see about having the IT Department come out and do an assessment of the internet/broadband service at the office so we can stream the meetings. The cost should be nominal and that could fit into the budget.

#### Use of the Parking Lots:

- Ken said he would like for the committee to agree on how to handle the residents wanting to use the parking lots to hold yard sales. Allowing yard sales to be held at the parking lots could be a deterrent for potential home buyers. Ken thinks if residents want to hold a yard sale they should do so on their own property.

#### Tar & Chip:

- You can tell the roads are failing from the freezing weather and salt. Good quality roads are one of the things that attract people to this community. We do not want to let the roads get out of our control. Kevin is already preparing the roads for grader patching and tar & chip in the fall.
- Jeff would like to see a different approach by being reactive versus proactive. He noticed that when the tar & chip was done previously, it has no structural support. It does not really seal anything up with gaps in between the strips of tar. He would like to

see the grader patching continue. This would build up a structural support to the road and seal it within itself. Over time we could have a decent road and come back to it in 3 to 5 years and reevaluate it to see if tar & chip would be a good idea. Would just like to see us try something different. Jeff would like to see a hold put on the upcoming tar & chip project to see if they can come up with a better way.

- Ken asked Jeff and Jason to form a subcommittee to research some alternatives to tar & chip. They will report their findings at the next SSDAC meeting.
- Joe stated that if the committee wants to recommend something different and have a discussion then we can take it to the Public Works Committee, and they can look into it. The biggest thing with paving is you do not get very many miles for the same dollar as tar & chip. He stated that doing tar & chip is the best option for the money.
- Barry spoke about the trade-off between the 2 ideas. The upfront cost of paving is higher but the maintenance cost over time of a paved road is lower than a tar & chip road. You have to tar & chip a road more often than if the road was paved. He would like to see the main roads paved because they get hit the hardest, skip a year, and then reassess the roads to see if tar & chip would need to be done. If tar & chip would not need done, then we could pave some more roads. This would give us a longer term with the roads.
- Jason said it should be put out to the public for the next meeting. It should be known if the SSDAC is planning to triple the spending on the roads. We want to have the information ready by the next meeting.
- The consensus is to table the tar & chip project and add the unused funds from FY20/21 to FY21/22 for a paving project. Once the paving project quotes have been received, if the committee is good with the numbers then we would get with the Finance Department to do an actual bid.

#### **SSDAC Files & Historical Information Missing:**

- There are years of minutes and a lot of history on Shawneeland missing from the SSDAC filing cabinet that is in the meeting room of Shawneeland. There are only a few people who had access to the cabinet so if anyone would know where those files are could they return them to the office or to Ken.

#### **Public Comments:**

- Jimmy Smith – He spoke on the Open House and how it could be beneficial to many of the items on the agenda. He spoke on the missing files and how it came to be known that they were missing.
- Rhonda Sargent – Via Email:  
First, I would like to say thank you to the staff for what they do and continue to do for those of us that reside/own property here. Next, I would like to say that I hope the current tar and chip program will continue as it has in the past. It's very important to continue to keep the roads in Shawneeland on a scheduled maintenance program. If not, the roads will fall into disrepair. Once this occurs it will be more costly in the long run to bring them back up to where they need to be to remain functional. Additionally, these roads help with the value of your home/property. For example, take a home for

sale in Shawneeland and look at the same type/size home in Mt. Falls Park/Wilde AcresMFP/WA). You will notice a definite difference in the price the two homes offered for sale. One of the reasons why is that most of the roads in MFP/WA are gravel - not tar and chipp. Their roads are not maintained very well (if at all). The last record of their maintenance was in 2018 and 2019 see attached spreadsheet. Although they pay less in their fees than we do, they get what they pay for and so do we.

I would also like to bring up something that had been brought up at previous meetings which is having Shawneeland change from a sanitary district to a homeowners' association (HOA) or even worse, a property owners' association like MFP/WA. There are a lot of benefits to Shawneeland being a sanitary district. Some of which are that we have our own staff to do minor road repairs, mowing, etc of common areas, snow removal etc. With an HOA, our fees would more than likely increase because you'd have to sub all those items out. A contractor when submitting a bid for these services is going to be more expensive as you're paying for their man hours as well as their equipment hours (and wear and tear), and possibly move and demove of said equipment. Plus, during a major weather event how long would it take the contractor(s) to respond? Then you have an HOA board, who would monitor them? What about collection of past due HOA fees? That would cost money to file judgements (if you ever collected the money) if not you'd still have to pay an attorney for their services. As it is now, the treasurer has the ability to offer the properties for sale to collect the back due taxes and sanitary district fees when they get to an amount that would make it worthwhile for the county as well as Shawneeland.

**Committee Comments:**

- George Bishop asked if the Lake is being drained? Kevin responded that the lake is not being drained. There are guidelines that must be followed according to the State of VA. If the lake gets above a certain level, then we do release some water to get it back to the safe level.

Ken adjourned the meeting.

## FREDERICK COUNTY SANITARY DISTRICT OF SHAWNEELAND MANAGER'S REPORT – MAY 2021

### **Cherokee Lake:**

The lake has made a remarkable recovery over the past 3 months. The lake level on December 3, 2020 was -129" and by March 8, 2021 the lake level was +11.5". This is the highest lake level since July 2, 2018 when the lake level was +12".

On March 17, 2021 the lake level was 7" above full pool. With the weather forecast calling for up to 2" of rain I decided to begin the lowering process by turning on 1 siphon and charging a 2<sup>nd</sup> to have on standby in case we needed an additional discharge.

I base my decisions on lowering the lake by the weather forecast that is given. It is my duty as a Frederick County employee to operate and maintain the dam pursuant to the provisions of the Dam Safety Act (Section 10.0-604 et Sep./Code of Virginia). I will continue to make decisions based on the most recent weather report.

### **Mowing Season:**

Mowing season is here once again, and staff will be cutting the common grounds once a week for as long as it is needed. Along with mowing, the staff will be weed eating and spraying weeds as needed. We will also begin mowing along the trails beginning in June. This will continue until fall.

### **Tree Removal:**

The staff has completed cutting trees for the time being. We will start the cutting process again in the fall. We will use a tree contractor on May 26<sup>th</sup> to remove some tree's that are unsafe for the staff to remove. Please keep in mind that we still have lots of wood laying on the right of way's for citizens to utilize.

### **Beach Season:**

We will follow the lead of how the Frederick County Parks and Recreation is handling the opening of public pools this year as to the opening of the beach. Once we receive this information, we will prepare the beach accordingly.



## **Attachment A**

### **Grader Patching:**

The staff will begin grader patching this month. We will concentrate on the trails that will be receiving Tar & Chip this fall. Then we have several trails that are in desperate need of asphaltting. If time allows, we will also be widening the following trails this summer/fall: Tomahawk, Maple, Tecumseh, and Bowman.

### **Tar & Chip Preparation:**

The Shawneeland staff begins preparing the trails that are scheduled for Tar & Chip in the fall. Before the scheduled work, we cut trees and brush overhanging limbs throughout the fall and winter as the weather allows. We also replace any drainage culverts during this time as weather allows. During the spring months we finish any tree cutting that was not achieved during the winter. The staff then begin taking care of any drainage issues by working the shoulders and ditched in any location that need attention. We also replace any culverts that were not replaced during the winter months. During the month of May we begin grader patching these trails as the weather permits.

Please keep in mind that this time of year is very busy with cutting grass, weed eating, spraying weeds, etc. This drastically slows down the process of preparing trails for Tar & Chip.