

AN ORDINANCE AMENDING CHAPTER 8 ENTITLED PLANNING AND DEVELOPMENT OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA SPECIFICALLY ARTICLE III, EROSION AND SEDIMENT CONTROL BY AMENDING SECTIONS 8-62, 8-64, 8-71, 8-73 AND 8-75 RESPECTIVELY IN ORDER TO CLARIFY AND STRENGTHEN EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT REQUIREMENTS CONCERNING COMMON PLAN OF DEVELOPMENT, CONSTRUCTION OF A SINGLE FAMILY DETACHED RESIDENTIAL STRUCTURE, LOT GRADING AND CONCEPT STORMWATER MANAGEMENT PLANS

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia that Chapter 8, entitled Planning and Development, Article III, Erosion and Sediment Control, Sections 8-62, 8-64, 8-71, 8-73 and 8-75 respectively of the Code of the County of Montgomery, Virginia, shall be amended and reordained as follows:

**8 ARTICLE III EROSION AND SEDIMENT CONTROL**

**8-III DIVISION 1 GENERALLY**

**Section 8-62 Definitions**

As used in this article, unless the context requires a different meaning:

*Agreement in lieu of an erosion and sediment control plan* means a contract between the VESCP plan-approving authority and the owner which specifies conservation measures which must be implemented in the construction of a single-family residence within and outside a common plan of development; this contract may be executed by the VESCP plan-approving authority in lieu of a formal site plan.

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

*Board* means the Virginia State Water Control Board.

*Certified inspector* means an employee or agent of a VESCP authority who (1) holds a certificate of competence from the board in the area of project inspection or (2) is enrolled in the board's training program for project inspection and successfully completes such program within one (1) year after enrollment.

*Certified plan reviewer* means an employee or agent of a VESCP authority who: (1) holds a certificate of competence from the board in the area of plan review; (2) is enrolled in the board's training program for plan review and successfully completes such program within one (1) year after enrollment; or (3) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, tit. 54.1, ch. 4, art. 1, § 54.1-400 et seq. or a professional soil scientist as defined in Code of Virginia, § 54.1-2200.

*Certified program administrator* means an employee or agent of a VESCP authority who: (1) holds a certificate of competence from the board in the area of program administration or (2) is enrolled in the boards training program for program administration and successfully completes such program within one (1) year after enrollment.

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

*Common plan of development or sale* means a continuous area where separate and distinct construction activities may be taking place at different times on different schedules under one common plan. Site plans, as defined in Va. Code § 15.2-2201, approved zoning requests and preliminary plats are documentation of common plans of development. Individual lots within existing residential, commercial or industrial site plans, and subdivision plans that were platted prior to July 1, 2004 may be considered separate land disturbing activities.

*County* means the County of Montgomery.

*Department* means the department of environmental quality.

*Development* means a tract of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three (3) or more residential dwelling units.

*Director* means the director of the department of environmental quality.

*District or soil and water conservation district* refers to the skyline soil and water conservation district.

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

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

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

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

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

*Land disturbing activity* means any manmade 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 commonwealth, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include:

1. Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
2. Individual service connections;
3. Installation, maintenance, or repairs of any underground public utility lines when such activity occurs on an existing hard-surfaced road, street or sidewalk provided such

land disturbing activity is confined to the area of the road, street or sidewalk which is hardsurfaced;

4. Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of the building to be served by the septic tank system;
5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Code of Virginia tit. 45.1;
6. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Code of Virginia, ch. 6, art. 2 (§ 10-1-604 et seq.), 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 Code of Virginia, ch. 11 (§ 10.1-1100 et seq.) of tit. 10.1 or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, § 10.1-1163, subsection B;
7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
8. Disturbed land areas of less than ten thousand (10,000) square feet in size;
9. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
10. 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 plan-approving authority.

*Land disturbing permit* means a permit issued by Montgomery County for the clearing, filling, excavating, grading, transporting of land or for any combination thereof or for any other land disturbing activity or for any purpose set forth herein.

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

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

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

*Permittee* means the person to whom the permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.

*Person* means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

*VESCP plan-approving authority* means the Montgomery County department of engineering and regulatory compliance responsible for determining the adequacy of a plan submitted for land disturbing activities on a unit or units of lands and for approving plans.

*VESCP authority or program authority* means Montgomery County which has adopted a soil erosion and sediment control program approved by the board.

*Responsible land disturber* means an individual from the project or development team, who will be in charge of and responsible for carrying out a land disturbing activity covered by an approved plan or agreement in lieu of a plan, who: (i) holds a responsible land disturber certificate of competence, (ii) holds a current certificate of competence from the board in the areas of combined administration, program administration, inspection or plan review, or (iii) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Code of Virginia, tit. 54.1, ch. 4, art. 1 (§ 54.1-400 et seq.) or a professional soil scientist as defined in § 54.1-2200.

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

*Single-family residence* means a noncommercial dwelling that is occupied exclusively by one (1) family.

*State erosion and sediment control program or state program* means the program administered by the Virginia soil and water conservation board pursuant to the state code including regulations designed to minimize erosion and sedimentation.

*State permit* means an approval to conduct a land disturbing activity issued by the department in the form of a state stormwater individual permit or coverage issued under a state general permit.

*State waters* means all waters on the surface and under the ground wholly or partially within or bordering the commonwealth or within its jurisdictions.

*Transporting* means any moving of earth materials from one (1) place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

*Virginia Erosion and Sediment Control Program or VESCP* means a program approved by the board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and non-agricultural runoff associated with a land disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical 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.

*Water quality volume* means the volume equal to the first one-half (1/2) inch of runoff multiplied by the impervious surface of the land development project.

#### **Section 8-64 Regulated Land Disturbing Activities; Submission And Approval Of Plans; Contents Of Plans**

- (a) Except as provided herein, no person may engage in any land disturbing activity until he or she has submitted to the department of engineering and regulatory compliance

for Montgomery County an erosion and sediment control plan for the land disturbing activity and such plan has been reviewed and approved by the VESCP plan-approving authority. No approval to begin a land disturbing activity will be issued unless evidence of state permit coverage is obtained where it is required. Where land disturbing activities involve lands under the jurisdiction of more than one (1) local control program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the department for review and approval rather than to each jurisdiction concerned. Where the land disturbing activity results from the construction of single-family residence, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP plan-approving authority.

- (b) The standards contained within the Virginia Erosion and Sediment Control Regulations and the Virginia Erosion and Sediment Control Handbook as amended are to be used by the applicant when making a submittal under the provisions of this section and in the preparation of an erosion and sediment control plan. The VESCP plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the state regulations shall take precedence.
- (c) The VESCP plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within forty-five (45) days of the receipt of the plan if it determines that the plan meets the requirements of the erosion and sediment control law and the board's regulations and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will conform to the provisions of this section. In addition, as a prerequisite to engaging in the land disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of the responsible land disturbing to the program authority, as provided by Code of Virginia, § 62.1-44.15:52, of the Virginia Erosion and Sediment Control Law who will be in charge of and responsible for carrying out the land disturbing activity. Failure to provide the name of the responsible land disturber prior to engaging in land disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this ordinance. However, the VESCP plan-approving authority may waive the certificate of competence requirement for an agreement in lieu of a plan for construction of a single-family residence. If a violation occurs during the land disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of the responsible land disturber as provided by Code of Virginia, § 62.1-44.15:52 of the Virginia Erosion and Sediment Control Law. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this ordinance.
- (d) The plan shall be acted upon within forty-five (45) days from receipt thereof by either approving said plan in writing or by disapproving said plan in writing and giving specific reasons for its disapproval.

When a plan is determined to be inadequate, the VESCP plan-approving authority shall specify the modifications, terms and conditions that will permit approval of the plan. If no action is taken within forty-five (45) days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. The VESCP authority shall act on any erosion and sediment control plan that has been previously disapproved within forty-five (45) days after the plan has been revised, resubmitted for approval and deemed adequate.

- (e) The VESCP plan-approving authority may require changes to an approved plan when:
1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
  2. The person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the VESCP plan-approving authority and the person responsible for carrying out the plans.
- (f) Variances. The VESCP plan-approving authority may waive or modify any of the standards that are deemed to be inappropriate or too restrictive for the site conditions, by granting a variance. A variance may be granted under these conditions:
1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the VESCP plan-approving authority shall be documented in the plan.
  2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the plan-approving authority. The VESCP plan-approving authority shall respond in writing either approving or disapproving such a request. If the VESCP plan-approving authority does not approve a variance within ten (10) days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
- (g) In order to prevent further erosion, Montgomery County may require approval of a plan for any land identified in the local program as an erosion impact area.
- (h) When land disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.
- (i) In accordance with the procedure set forth by Code of Virginia, § 62.1-44.15:55(E), any person engaging in the creation and operation of wetland mitigation or stream restoration banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of wetland mitigation or stream restoration banks, pursuant to a mitigation banking instrument signed by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of the person, file general erosion and sediment control specifications for wetland mitigation and stream restoration banks annually with the board for review and approval consistent with guidelines established by the board.
- (j) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas companies and railroad companies shall file general erosion and sediment control specifications annually with the department for review and approval. These specifications shall apply to:
1. Construction, installation and maintenance of electric transmission, natural gas and telephone utility lines and pipelines, and
  2. Construction of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of the railroad company.

Projects not included in subsections (j)(1) and (2) shall comply with the requirements of the Montgomery County erosion and sediment control program, pursuant to Code of Virginia, § 62.1-44.15-:56D of the Virginia Erosion and Sediment Control Law.

- (k) State agency projects are exempt from the provisions of this ordinance except as provided for in Code of Virginia, § 62.1-44.15:56 of the Virginia Erosion and Sediment Control Law.
- (l) If the grade of a site is more than thirty-three and one-third (33 1/3 ) percent, refer to the International Building Code, Chapter 18, as amended, for foundation clearances from slopes.
- (m) Cut slopes or fill slopes shall not be greater than 2:1 (horizontal:vertical), unless a geotechnical report is provided for the proposed slopes.
- (n) Cut slopes or fill slopes shall not be greater than twenty-five (25) vertical feet in height, unless a geotechnical report is provided for the proposed slopes. Cut slopes or fill slopes less than or equal to 3:1 (horizontal:vertical) may exceed twenty-five (25) vertical feet in height and shall not require a geotechnical report.
- (o) For any cut slopes or fill slopes greater than or equal to 2:1 (horizontal:vertical) or greater than or equal to twenty-five (25) vertical feet in height with a slope greater than 3:1 (horizontal:vertical), as-built plans showing that the finished geometry, based on a field survey performed by a licensed surveyor, is in substantial conformity with the design shall be provided to the plan-approving authority.
- (p) Fill materials, compaction methods and density specifications shall be indicated on the site development plans. Fill areas intended to support structures shall also be indicated on the site development plans.
- (q) ~~Development plans for all new subdivisions~~ Site plans and lot grading plans shall show proposed lot grades to ensure positive drainage ~~and~~ from building pads, compatibility with stormwater management plans, and protection of downstream properties including future buildable lots.
- (r) The administrator may waive the lot grading requirement when proposed mass grading demonstrates compatibility with overall stormwater management plans. The waiver conditions will require individual lot grading plan submittal for review at the time of building permit application. Lot grading plans shall demonstrate compliance with the overall stormwater management plan and compatibility with development of adjacent and downstream lots.

### **8-III DIVISION 2 STORMWATER MANAGEMENT**

#### **Sec 8-71 Definitions**

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

*Administrator* means the VSMP authority including the county staff person or department responsible for administering the VSMP on behalf of the locality. The Montgomery County Board of Supervisors hereby designates the county administrator or their designee as the Administrator of the Virginia Stormwater Management Program.

*Administrative guidance manual* means the documentation of policies and procedures for documentation and calculations verifying compliance with the water quality and quantity requirements review and appeal of stormwater pollution prevention plans and stormwater management plans, site inspections, obtaining and releasing bonds, reporting and record keeping, and compile a strategies for reviews, enforcement and long term maintenance and inspection programs.

*Agreement in lieu of a stormwater management plan* means a contract between the county and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the stormwater management program for the construction of a single-family residence within and outside a common plan of development; such contract may be executed by the county in lieu of a stormwater management plan.

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

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

*Common plan of development or sale* means a contiguous area where separate and distinct construction activities may be taking place at different times on different schedules under one common plan. Site plans, as defined in Va. Code § 15.2-2201, approved zoning requests and preliminary plats are documentation of common plans of development. Individual lots within existing residential, commercial or industrial site plans and subdivision plans that were platted prior to July 1, 2004, may be considered separate land disturbing activities.

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

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

*County* means County of Montgomery.

*Department* means the Department of Environmental Quality.

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

*General permit* means the state permit titled General Permit For Discharges Of Stormwater From Construction Activities found in Part XIV (9VAC25-880-1 et seq.) of the Regulations authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

*Land disturbance or land disturbing activity* means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in section 8-72 (b) of this division.



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

*Lot grading plans* specifies the proposed elevations and drainage patterns for land development on a single parcel of land. The plan shall include design elevations and any storm drainage features. The plan establishes the grading relationship between adjacent properties and serves as the basis for controlling surface runoff.

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

*Operator* means the owner or operator of any facility or activity subject to regulation under this division.

*Permit* or *VSMP authority permit* means an approval to conduct a land disturbing activity issued by the administrator for the initiation of a land disturbing activity, in accordance with this division, and which may only be issued after evidence of general permit coverage if such statement is required has been provided by the department.

*Permittee* means the person to whom the VSMP authority permit is issued.

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

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

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

*State* means the Commonwealth of Virginia.

*State board* means the Virginia State Water Control Board.

*State permit* means an approval to conduct a land disturbing activity issued by the state board in the form of a state stormwater individual permit or coverage issued under a state general permit, if such permit is required, or an approval issued by the state board for stormwater discharges from an MS4. Under these state permits, the commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Stormwater Management Act and the Regulations.

*State water control law* means Chapter 3.1 (§62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

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

*Stormwater* means precipitation that is discharged across the land surface or through conveyances to one (1) or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

*Stormwater management plan* means a document(s) containing material describing methods for complying with the requirements of section 8-75 of this division.

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

*Subdivision* means the same as defined in Chapter 8, Article IV Subdivisions of the Code of the County of Montgomery, Virginia.

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

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

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

*Virginia Stormwater Management Program* or *VSMP* means a program approved by the state board after September 13, 2011, that has been established by a locality to manage the quality and quantity of runoff resulting from land disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

*Virginia Stormwater Management Program authority* or *VSMP authority* means an authority approved by the State Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

### **Sec 8-73 Stormwater Management Program Established; Submission And Approval Of Plans; Prohibitions**

- (a) Pursuant to §62.1-44.15:27 of the Code of Virginia, Montgomery County hereby establishes a Virginia stormwater management program for land disturbing activities and adopts the applicable regulations that specify standards and specifications for VSMPs promulgated by the state board for the purposes set out in section 8-70 of this division. The Montgomery County Board of Supervisors hereby designates the county administrator or their designee as the Administrator of the Virginia Stormwater Management Program.
- (b) Pursuant to §62.1-44.15:28 7 of the Code of Virginia, the county must ensure the 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.

- (c) Pursuant to §62.1-44.15:28 8 of the Code of Virginia, a general permit statement is not required for detached single-family home construction within or outside of common plan of development or sale with a land disturbing activity.
- (d) An agreement in lieu of a stormwater management plan may be granted by the Administrator for ~~detached~~ single-family detached residential structure home construction within or outside of common plan of development or sale with a land disturbing activity ~~less than five (5) acres; however such projects must comply with the requirements of the general permit. if the single-family residential structure has less than one acre of land disturbance and complies with one of the following conditions:~~
- (1) It is within a common plan of development with an approved erosion and sediment control and stormwater management plans and general permit coverage for the entire common plan of development; or
  - (2) It is within a common plan of development established prior to July 1, 2004 that does not have an approved erosion and sediment control and stormwater management plan; or
  - (3) It is outside a common plan of development.

However, such projects must comply with the requirements of the general permit and have a stormwater pollution prevention plan onsite.

- (e) No VSMP authority permit shall be issued by the administrator until an executed agreement in lieu of a stormwater management plan is provided and/or the following items have been submitted to and approved by the administrator as prescribed herein:
1. A permit application that includes a general permit registration statement, if such a statement is required;
  2. An erosion and sediment control plan approved in accordance with the Montgomery County Erosion and Sediment Control Ordinance Chapter 8, Article III of this Code; and
  3. A stormwater management plan that meets the requirements of Section 8-75 of this division, or an executed agreement in lieu of a plan as provided for in section 8-73(d) of this division.
  4. Other requirements as set forth in section 9VAC25-880-70 of the general permit.
- (f) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained, if such permit is required.
- (g) No VSMP authority permit shall be issued until the fees required to be paid pursuant to section 8-84, are received, and a reasonable performance bond required pursuant to section 8-85 of this division has been submitted.
- (h) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (i) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the administrator.

## **Sec 8-75 Stormwater Management Plan; Contents Of Plan**

- (a) A stormwater management plan shall be developed and submitted to the VSMP authority. The stormwater management plan shall be implemented as approved or modified by the VSMP authority and shall be developed in accordance with the following:
- (1) A stormwater management plan for a land disturbing activity shall apply the stormwater management technical criteria set forth in this part to the entire land disturbing activity and/or common plan of development. Individual lots in new residential, commercial, or industrial common plans of developments shall not be considered separate land disturbing activities.
  - (2) A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- (b) The stormwater management plan shall include the following information and as required by the VSMP permit regulations (9VAC25-870-55) and the Administrative Guidance Manual:
- (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and postdevelopment drainage areas;
  - (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
  - (3) A narrative that includes a description of current site conditions and final site conditions;
  - (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete and a note that states the stormwater management meets the requirements set forth in the VSMP permit regulations (9VAC25-870-55) and the Administrative Guidance Manual;
  - (5) Information on the proposed stormwater management facilities, including:
    - a. The type of facilities;
    - b. Location, including geographic coordinates;
    - c. Acres treated; and
    - d. The surface waters or karst features, if present, into which the facility will discharge.
  - (6) Hydrologic and hydraulic computations, including runoff characteristics;
  - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of section 8-78 of this division and the Administrative Guidance Manual.
  - (8) A map or maps of the site that depicts the topography of the site and includes:
    - a. All contributing drainage areas;
    - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
    - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;

- d. Current land use including existing structures, roads, and locations of known utilities and easements;
  - e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
  - f. The limits of clearing and grading, ~~and~~ the proposed drainage patterns on the site and proposed lot grades in conformance with Section 8-64;
  - 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 planned locations of utilities, roads, and easements.
- (c) If an operator intends to meet the water quality and/or quantity requirements set forth in section 8-78 of this division through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land disturbing activity except as otherwise allowed by §62.1-44.15:35 of the Code of Virginia.
- (d) 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 engineer, architect, surveyor or landscape architect registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (1) If agreement in lieu of a stormwater management plan is executed, a stormwater pollution prevention plan is still required; however, the administrator may waive the requirement of the plan to be signed and sealed by a professional engineer, architect, surveyor or landscape architect registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
- (e) A construction record drawing for permanent stormwater management facilities shall be submitted to the administrator. The construction record drawing shall be appropriately sealed and signed by a professional engineer, architect, surveyor or landscape architect registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.
- (1) If agreement in lieu of a stormwater management plan is executed, a construction record drawing is still required; however, the administrator may waive the certification by a professional engineer, architect, surveyor or landscape architect registered in the Commonwealth of Virginia pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.