



Date of Town Council Meeting: May 13, 2014

**TOWN OF LEESBURG  
TOWN COUNCIL MEETING**

**SUBJECT:** *Stormwater Ordinance Changes:* Text Amendments to the Design and Construction Standards Manual (DCSM); *and* Text Amendments to the Subdivision and Land Development Regulations (SLDR); *and* Text Amendments to the Town Code; *and* Changes to the Land Development Fee Schedule.

**STAFF CONTACTS:** William R. Ackman Jr. P.E., Director of Plan Review (DPR)

**ISSUES:** The Commonwealth of Virginia Department of Environmental Quality (DEQ) has mandated that all local jurisdictions operating a stormwater program under Virginia's Municipal Separate Storm Sewer System (MS-4) permit amend their ordinances and fee schedules to meet Virginia's newly created stormwater regulations. Therefore, to comply with this mandate, the Town of Leesburg is required to amend the DCSM, the SLDR, the Town Code and the Land Development Fee Schedule. The SLDR changes include revising the definition of a site plan waiver so to have a single plan type to handle applications that qualify for stormwater regulation exemptions.

**RECOMMENDATION:** Staff recommends that text amendments to Article 5 of the DCSM; *and* text amendments to Division 3 – Sections 3.08 and 3.09 of the SLDR; *and* text amendments to the Town Code Part II, Chapter 14 – Environment, Article II – Stormwater Management; *and* revisions to the Land Development Fee Schedule be adopted to update each document (as applicable) to conform and adhere to the newly created State mandated stormwater regulations.

Please be advised that adoption of these ordinance revisions is critical to ensure that future development within the Town is done in a "Site Neutral" manner that will not increase the Total Maximum Daily Load (TMDL) for phosphorous and sediment from a site's pre-development levels. It is important to mention that projects approved under the Town's *current* SWM regulations will *increase* phosphorous and sediment levels generated from a development beyond the limit now required by DEQ. These additional pollutants will then become the responsibility of the Town to treat (above and beyond the levels in which DEQ has already mandated the Town to treat so to comply with our current TMDL allocation prior to 2024).

**FISCAL ANALYSIS:** The new stormwater regulations add additional review, permitting and inspection tasks to the Town that were previously handled by the Virginia Department of Environmental Quality (DEQ). Therefore, there is the potential that additional staff may need to be added once the full impacts of the new Town responsibilities are known. Until then, DPR and DPW will attempt to perform these tasks with existing staff.

**BACKGROUND:** On September 13, 2011, the Virginia Soil and Water Conservation Board adopted new minimum standards and requirements for the regulation of stormwater in accordance with the amendments to the Virginia Stormwater Act, originally adopted by the General

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Assembly in 2004. These changes require all localities in Virginia to adopt more stringent stormwater management programs. Specifically, for the Town of Leesburg, this primarily means that applicable sections of Chapter 14 of the Town Code, Article 5 of the DCSM and Division 3 of the SLDR must be updated to comply with Virginia's new minimum standards for stormwater management.

The Virginia Department of Conservation and Recreation (DCR) was originally tasked with developing a statewide model stormwater ordinance. After several drafts and public input (Town Staff was represented by NVRC as well as AMEC), the Virginia Soil and Water Conservation Board approved a "final" draft of this model ordinance on December 13, 2012.

However, due to manpower issues within DCR and questions over which State board would have final authority over the regulations, a statewide reorganization took place. This resulted in DEQ taking over Virginia's stormwater program from DCR and the Virginia Soil and Water Conservation Board being replaced by the State Water Control Board as the ultimate regulatory authority. Upon taking control, the State Water Control Board made changes to and ultimately adopted several additional changes to the new minimum standards for stormwater management at their meeting on December 17, 2013. Draft documents were then sent to DEQ for review and comment on January 15, 2015. Draft comments were provided by DEQ on April 8, 2014 and the applicable changes have been incorporated into the attached documents.

Even after those changes were adopted, the general assembly proposed yet more changes to the stormwater regulations. This new legislation was signed by the governor in late March 2014 making yet additional changes to the new stormwater regulations that the Town had to incorporate into our Town regulations and ordinances. These last minute changes are reflected in the draft amendments to the Town Code the DCSM and the SLDR.

In summary, staff has worked closely with AMEC, NVRC and the private sector for over 2 years to develop and modify all applicable Town Codes and ordinances throughout all the State's changes. The final draft documents have been reviewed and comments incorporated from ESI's Technical Review Committee. Staff has also met with and explained the State's new mandated stormwater regulations to the Town's EAC on two separate occasions to update them on the changes to the Town's various stormwater ordinances and regulations. Staff also explained how the new regulations will differ from today's standards and noted how these new regulations should help minimize any further degradation to the Town's watersheds.

On May 01, 2014, the Planning Commission voted 4-0 (with 3 members absent) to forward the attached DCSM and SLDR changes to the Council with a recommendation of "Approval". Please be advised that the Code of Virginia does not require Planning Commission action for changes to the Town Code or the Land Development Fee Schedule. Therefore, although these documents were part of the Commission's packet and part of Staff's presentation, the Planning Commission did not formally act on those two documents.

All of these Documents have been available for distribution at Town Hall as well as on the Town's webpage throughout the process and have been routinely updated to reflect the various changes suggested by others, mandated by statute changes and changes required to address DEQ comments.

Staff has also notified all applicants that have active or inactive plans in the development process of the coming SWM changes as well as provided them with vesting and grandfathering information.

**A Summary of the proposed changes to the DCSM generally include the following:**

*(For the entire clean **Redlined** document, please reference the attached “**Ordinance for DCSM SWM Changes Attachment #1**”; or for a more detailed version with notes and highlights, please reference “**DCSM Changes with explanation notes and highlights**”)*

**DCSM Article 5 – Stormwater Revisions** – to revise the DCSM as necessary to comply with State-mandated minimum requirements for stormwater management. In addition to the changes listed below, many unedited sections have been re-labeled to address deleted or new sections.

**Section 5-100 General Information:**

- Language is added or modified to explain when the State’s new minimum stormwater regulations will apply.
- Clarifies definitions of minor and major storm systems.
- Removes references to equations.
- Minor text changes for consistency and clarification.

**Section 5-110 Intent:**

- Language is clarified to relate to the State’s new minimum stormwater regulations.

**Section 5-120 Remarks:**

- Title is revised from “Remarks” to “References”.
- All references have been updated.

**Section 5-210 General:**

- Language regarding allowable post-development release rates has been removed.
- Pro-Rata share has been removed from this section and added in new section 5-333.
- Town Code and DCSM section references have been updated to reflect the current revised sections.
- Minor text changes for consistency and clarification.

**Old Section 5-220 Easements:**

- This section has been completely re-formatted and moved to section 5-700.

**Added a new Section 5-220 Hydraulic Design for Stormwater Conveyance (previously section 5-230):**

**New Section 5-221 Rational Method (previously section 5-231):**

- Design storm events re-defined to meet the State’s new minimum stormwater regulations.

**New Section 5-222 USDA-SCS (NRCS) Methodology (previously section 5-232):**

- Minor text changes for consistency and clarification.

**New Section 5-232 Design Criteria (previously section 5-242):**

- Revised Mannings “N” value in chart for CMP pipe.
- Minor text changes for consistency and clarification.

**New Section 5-233 Design Criteria (previously section 5-243):**

- Minor text changes for consistency and clarification.

**New Section 5-239 Energy and Hydraulic Gradients (previously section 5-249):**

- Language is clarified to state where hydraulic gradient is shown on the plans and profiles.

**New Section 5-242 Man Made Stormwater Conveyance Channels (previously section 5-252):**

- Minor text changes to remove the 100 year storm design requirement for open channels.

**New Section 5-244 Lot Drainage Swales (previously section 5-254):**

- Minor text changes for consistency and clarification.

**New Section 5-247 Water Surface Profile Computations (previously section 5-257):**

- Minor text changes for consistency and clarification.

**Section 5-310 General:**

- Language revised to require Stormwater Management (SWM) and Best Management Practice (BMP) to meet the new minimum Federal, State and Local criteria.
- New design references provided.
- Clarification on required permits provided.
- Minor text changes for consistency and clarification.

**Section 5-311 Stormwater Management Requirements:**

- Revised Title to “Applicability”.
- Town Code references have been added regarding regulated land disturbing activities.
- Town Code references have been added regarding exemptions to the State’s new minimum stormwater regulations.
- State Code references have been added regarding the State’s new minimum stormwater regulations for water quantity and quality as well as for VSMP permit requirements.
- Requirements for water quality and quantity have been added for land disturbing activities less than one acre.
- Town and State Code references have been added regarding grandfathering clauses.
- Specific design components regarding adequate outfall, adequate channel, flow leaving the site and other related criteria have been removed from this section and relocated to new section 5-332, and revised to meet components of the State’s new minimum stormwater regulations.
- Water quantity design requirements been removed from this section and relocated to new section 5-330, and revised to meet components the State’s new minimum stormwater regulations.
- Minor text changes for consistency and clarification.

**Old Section 5-312 Hydrologic Design for Stormwater Management:**

- This section has been completely deleted.

**New Section 5-312 Design Storms and Hydrologic Methods (previously section 5-313) Rational Method):**

- Revised Title to “Design Storms and Hydrologic Methods”.
- This section reformatted to include text revisions and revising paragraph 1 from old section 5-314 and adding it in this section.
- Text changes to modify and/or remove outdated references and design criteria.
- Removed paragraph 2 regarding required storage volume.

**Old Section 5-314 USDA – NRCS Methodology:**

- This section has been completely deleted except that paragraph 1 has been revised and moved it to the new section 5-312.
- Eliminated the rest of this section.

**Old Section 5-320 General Design Criteria:**

- This section has been renamed “Stormwater Management Facilities” and moved to section 5-340.

**New Section 5-320 Water Quality (previously section 5-620 Water Quality Design Criteria):**

- This entire section has been added here from section 5-620 and the title revised to remove “Design Criteria” from the section title.
- Added a third paragraph stating when water quality criteria must be applied to construction plans.

**Old Section 5-321 Design of Stormwater Management Facilities:**

- This section has been renamed to add “Within Tuscarora Water Shed” at the end of the title and moved to section 5-341.

**New Section 5-321 Environmental Site Design (previously section 5-620.1: Use of Low Impact Development (LID) for Water Quality):**

- This entire section has been added here from section 5-620.4 and the title revised to “Environmental Site Design” to replace “Low Impact Development”
- Language revised to require a written assessment for the potential use of Environmental Site Design with each land disturbing activity.
- Language added to clarify only BMP Clearinghouse approved facilities shall be used in Environmental Site Design.

**Old Section 5-322 General Criteria:**

- This section has been revised to delete “Criteria” from the end of the title and moved to section 5-342.

**New Section 5-322 Hot Spots (previously section 5-640):**

- This entire section has been added here from section 5-640.
- Adds text to explain total maximum daily load (TMDL) and Waste Load Allocation (WLA) to better define water quality requirements within designated hot spot areas.
- Requires hot spot projects to assume pre-development greenfield conditions.
- Relocates minimum requirements for plans dealing with petroleum or hazardous waste materials and adds specific requirements for gas stations and other petroleum dispensing operations to the end of the section.
- Language added as to when a SWPPP is required.
- Minor text changes for consistency and clarification.

**Old Section 5-323 Detention Ponds**

- This section has been completely deleted.

**New Section 5-323 Stream Delineation and Buffer Criteria (previously section 5-650):**

- This entire section has been added here from section 5-650.
- Language added to clarify requirements and acceptable methods of identifying perennial and intermittent streams.
- Clarifies required buffer requirements to be consistent with the zoning ordinance.
- Minor text changes for consistency and clarification.

**Old Section 5-324 Embankment Ponds:**

- This entire section has been moved to section 5-521.

**Old Section 5-325 Excavated Ponds:**

- This entire section has been moved to section 5-343.

**Old Section 5-326 Wet Ponds:**

- This section has been completely deleted.

**Old Section 5-327 Visual Resource Design – Wet and Dry Ponds:**

- This section has been completely deleted.

**Old Section 5-328 Stormwater Management Pond Plans:**

- This entire section has been moved to section 5-345.

**Old Section 5-330 Rooftop Detention:**

- This entire section has been moved to section 5-346.

**New Section 5-330 Water Quantity:**

- This is a new title with text added here from old section 5-311.
- Adds text to state design requirements and criteria for all types of construction projects.
- Minor text changes for consistency and clarification.

**Old Section 5-331 Design Criteria:**

- This entire section has been incorporated into new section 5-346 Rooftop Detention.

**New Section 5-331 Detention Measures:**

- This is a new title with new text to explain why on-site detention may be desirable.
- Provides text providing the Director the authority to modify detention requirements in the Tuscarora drainage shed.

**Old Section 5-332 Plan Preparation:**

- This entire section has been incorporated into new section 5-346 Rooftop Detention.

**New Section 5-332 Adequate Outfall:**

- This is a new title with text added here from old section 5-311.
- The old text has been revised to adhere to the State's new minimum stormwater regulations, reformatted and minor text changes made for consistency and clarification.

**New Section 5-333 Pro Rata Share Program:**

- This is a new title with text added here from old section 5-210.
- The old text has been revised to adhere to the State's new minimum stormwater regulations reformatted and minor text changes made for consistency and clarification.
- Time limitations for reimbursement have been eliminated.

**Old Section 5-340 Underground Detention:**

- This entire section has been moved to section 5-347.

**New Section 5-340 Stormwater Management Facilities (previously section 5-320):**

- This section has been renamed "Stormwater Management Facilities" and moved from section 5-320.

**Old Section 5-341 General:**

- This entire section has been incorporated into new section 5-347 Underground Detention.

**New Section 5-341 Design of Stormwater Management Facilities Within Tuscarora Water Shed (previously section 5-321):**

- This section has been renamed to add "Within Tuscarora Water Shed" at the end of the title and moved from section 5-321.
- Delete and modify text to state only the Tuscarora Watershed applies to this section. Delete references to Cattail Branch, Big Springs and Sycolin Creek Watersheds.
- The old text has been revised to adhere to the new more stringent stormwater regulations for the one and two year storms related to detention as well as for erosion control criteria.
- Minor text changes for consistency and clarification.

**Old Section 5-342 Design Criteria:**

- This entire section has been incorporated into new section 5-347 Underground Detention.

**New Section 5-342 General (previously section 5-322):**

- This section has been revised to delete "Criteria" from the end of the title and moved from section 5-322.
- Revise language to match that in the State Code to allow Director to modify stormwater management requirements to match the Town's Stormwater Master Plan.
- Add and modify text previously found in section 5-620 regarding required inspections of stormwater management facilities.
- Move maintenance responsibility chart to section 5-370.
- Embankment design requirements are now referenced in this section.
- The old text has been revised to adhere to the State's new minimum stormwater regulations reformatted with minor text changes made for consistency and clarification.

**Old Section 5-343 Plan Preparation:**

- This entire section has been incorporated into new section 5-347 Underground Detention.

**New Section 5-343 Excavated Ponds (previously section 5-325) Excavated Ponds:**

- This entire section has been added here from section 5-325.

**New Section 5-344 Stormwater Management Pond Plans (previously section 5-328):**

- This entire section has been added here from section 5-328.
- One minor text change for consistency and clarification.

**New Section 5-345 Rooftop Detention (previously section 5-330):**

- This entire section has been added here from section 5-330.
- This section reformatted to include old sections 5-331 and 5-332

**New Section 5-346 Underground Detention (previously section 5-340):**

- This entire section has been added here from section 5-340.
- This section reformatted to include old sections 5-341, 5-342 and 5-343.
- All easement references have been removed and combined in new section 5-700.
- Revised text to clarify detention requirements.

**New Section 5-347 Porous Pavement (previously section 5-350):**

- This entire section has been added here from section 5-350.
- This section reformatted to include old sections 5-351 and 5-352
- Minor text changes for consistency and clarification.

**New Section 5-350 Regional Facilities (previously section 5-360):**

- This entire section has been added here from section 5-360.

**New Section 5-360 Waivers and Exemptions (previously section 5-370):**

- This section has been renamed to add “and exemptions” to the end of the title, text revised and moved in its entirety from section 5-370.
- The old text has been revised to adhere to the State’s new minimum stormwater regulations reformatted and minor text changes made for consistency and clarification.
- Text has been added to require all waivers and exemptions to follow the process established in the Town Code.
- Some previous examples and guidelines for waivers have been removed from this section.

**New Section 5-370 Inspection and Maintenance Provisions (previously section 5-380):**

- This entire section has been added here from section 5-360.
- Adds requirement that a maintenance agreement shall be approved and recorded prior to all types of construction plan approvals.
- Minor text changes and deletion of paragraph 1 for consistency and clarification.
- Adds all maintenance responsibility charts from old section 5-322.

**Sections 5-410, 5-431, 5-511 and 5-520:**

- Minor text change to delete the word “manual” and replace it with “DCSM”.

**New Section 5-521 Embankment Ponds (previously section 5-324):**

- This entire section has been added here from section 5-324.
- The information regarding the regulating authority for large ponds has been clarified.

**Old Section 5-600 Stormwater Runoff Quality Control Criteria:**

- This section has been completely deleted.

**Old Section 5-610 General:**

- This section has been completely deleted due to nonconformance with the State’s new minimum stormwater regulations.
- Portions of this section have been incorporated into new sections 5-300, 5-310 and other revised sections of this article.

**Old Section 5-620 Water Quality Design:**

- This section has been completely deleted due to nonconformance with the State’s new minimum stormwater regulations.
- Portions of this section have been incorporated into new sections 5-300, 5-310, 5-320, 5-321, 5-523, 5-341 and other revised sections of this article.

**Old Section 5-630 Exemptions to Water Quality Requirements:**

- This section has been completely deleted due to nonconformance with the State's new minimum stormwater regulations.
- Portions of this section have been incorporated into new sections 5-311.

**Old Section 5-640 Hot Spots:**

- This section has been completely deleted due to nonconformance with the State's new minimum stormwater regulations.
- Portions of this section have been incorporated into new sections 5-322.

**Old Section 5-650 Stream Delineation and Buffer Criteria:**

- This section has been completely deleted due to nonconformance with the State's new minimum stormwater regulations.
- Portions of this section have been incorporated into new sections 5-323.

**Old Section 5-660 Stormwater Pollution Prevention Plans:**

- This section has been completely deleted due to nonconformance with the State's new minimum stormwater regulations.
- Portions of this section have been incorporated into sections 5-311 and 5-322.

**Old Table 5-630-1 BMP Efficiencies and Considerations:**

- This table has been completely deleted due to nonconformance with the State's new minimum stormwater regulations.

**New Section 5-600 Inspection and Acceptance (previously section 5-700):**

- This entire section has been added here from section 5-700.

**New Section 5-610 Inspection (previously section 5-710):**

- This entire section has been added here from section 5-710.

**New Section 5-620 Acceptance (previously section 5-720):**

- This entire section has been added here from section 5-720.
- Adds requirement that a maintenance agreement shall be executed and a maintenance bond be in place prior to acceptance of a stormwater facility.
- Text changes to clarify new inspection and acceptance process.

**New Section 5-700 Easements:**

- This is a new section with a new title.

**New Section 5-701 General:**

- This is a new section with a new title and new language including some text from old section 5-370.

**New Section 5-702 Easement Applicability and Width:**

- This is a new section that includes a new consolidated easement chart based upon text from old sections 5-220, 5-323, 5-347 and 5-370.
- All old easement text references from those sections are deleted.

**A Summary of the proposed changes to the SLDR generally include the following:**

*(For the entire **Redlined** document, please reference the attached "**Ordinance for SLDR SWM Changes Attachment #1**")*

**Subdivision and Land Development Regulations Division 3 (Development)** - Amendments to revise the SLDR site plan requirements for Mini Site Plans and Site Plan Waivers as indicated below.

**Sec. 3.08 Mini Site Plan**

- In paragraph (a.) revise the applicability from “up to 3,200 square feet” to “over 500 square feet but less than 3,200 square feet.

**Sec. 3.09 Site Plan Waiver**

- Re-format the section to add a Non-Residential component to this type of plan.
- New paragraph 1., adds provisions as to when a Site Plan Waiver is applicable and now allows minimal public improvements with type of a plan.
- New paragraph 1.(a), adds the heading “Residential”.
- New paragraph 1.(b), adds the heading “Non-Residential”.
- New paragraph 1.(b), adds sub-paragraphs to identify the specific types of land development that would qualify for a Site Plan Waiver.
- New paragraph 2., adds a heading for plan requirements.
- New paragraph 2.(a) and 2.(e) clarifies when a licensed professional must prepare the plan.
- Paragraph 2.(c), revised to summarize licensed professionals.
- Paragraph 2.(d), revised to add a provision for public improvement bonds.
- Paragraph 2.(e), revised to add additional requirements to supplement the expanded application criteria.

**A Summary of the proposed changes to the Town Code generally include the following:** *(For the entire **Redlined** document, please reference the attached “**Ordinance for Town Code SWM Changes Attachment #1**”; or for a more detailed version with notes and highlights, please reference “**Town Code Changes with explanation notes and highlights**”)*

**Town Code Part II, Chapter 14 – Environment, Article II – Stormwater Management Revisions**

**General Article II**

- Update Code of Virginia reference to regarding the State’s stormwater law.
- Add Sec. 14-25. – Hearings
- Add Sec. 14-26. – Appeals

**Sec. 14-19. – Definitions**

- Add a definition for “Agreement in lieu of a stormwater plan”
- Add a definition for “Applicant”
- Revise the definition for “Best Management Practice or BMP”
- Add a definition for “Common plan of development or sale”
- Deleted definition of “Conservation Plan”
- Add a definition for “Control Measure”
- Add a definition for “Clean Water Act or CWA”
- Add a definition for “Department or DEQ”
- Add a definition for “development”
- Revised Definition of “Discharge”
- Add a definition for “Erosion and Sediment Control Plan”
- Delete the term “Low Impact Development (LID)” and replace with “Environmental Site Design (ESD)” and keep original definition.
- Add a definition for “General Permit”
- Revised Definition of “Illicit Discharge”

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- Revised Definition of “Impervious Surface Area”
- Add a definition for “land disturbance or land-disturbing activity”
- Add a definition for “layout”
- Add a definition for “minor modification”
- Revised Definition of “Municipal Separate Storm Sewer ”
- Revised Definition of “Natural Channel”
- Revised Definition of “Nonpoint Source Pollution ”
- Add a definition for “Operator”
- Revised Definition of “Permittee”
- Add a definition for “Person”
- Revised Definition of “Point Source”
- Add a definition for “Regulations or VSMP regulations”
- Add a definition for “site”
- Add a definition for “State”
- Add a definition for “State Permit”
- Add a definition for “State Waters”
- Add a definition for “State Water Control Law”
- Revise the definition for “stormwater”
- Add a definition for “stormwater management plan”
- Revise the definition for “Stormwater Pollution Prevention Plan or SWPPP”
- Add a definition for “subdivision”
- Add a definition for “Total Maximum Daily Load or TMDL”
- Add a definition for “Virginia Erosion and Sediment Control Law”
- Add a definition for “Virginia Stormwater Management Act”
- Add a definition for “Virginia Stormwater BMP Clearinghouse website”
- Add a definition for “Virginia Stormwater Management Program of VSMP”

**Sec. 14-21. – Authority**

- Updated Code of Virginia and associated Authority references.

**Sec. 14-23. – Program Components**

- Add line item for VSMP compliance.
- In paragraph (c), remove the word illicit.
- In paragraph (c) under “Not unlawful discharges”, Reword line items groundwater infiltration and car washing; Delete line items for various types of uncontaminated pumping of groundwater, lawn watering and lawn fertilizing; Add line items for uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, irrigation water, springs, water from crawlspace pumps, footing drains, lawn watering,
- In paragraph (d)(2) b. deleted “Conservation Plan” / replaced with “Erosion Sediment Control Plan”
- Add paragraph (e) as well as sub topics with detailed explanations for: VSMP compliance, VSMP compliance elements, Stormwater pollution prevention plan, Fees and Bonds, Grandfathering, Monitoring and inspections, and Exemptions.
- In paragraph (f), formally paragraph (e), subsection (2), revise minimum allowable square footage to 500 square feet that requires a grading/land disturbance permit from the County. Also better defined the executed agreement between Loudoun County and the Town for issuance of said permits.
- In paragraph (f), formally paragraph (e), subsection (3), add Pollution Prevention Plan with detailed explanation of requirements.

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- In paragraph (g), formally paragraph (f), subsection (1), Redefined requirements of post construction stormwater control minimum requirements complete with Code of Virginia references.
- In paragraph (g), formally paragraph (f), subsection (2), Redefined requirements of the post construction stormwater control Stormwater Management Plan that must be shown on all construction plans for land disturbing activities.
- In paragraph (g), formally paragraph (f), subsection (3), new verbiage is provided to explain the potential process required to obtain “Nutrient credit offsets”.
- In paragraph (g), formally paragraph (f), subsection (4), new verbiage is provided to explain the “Stormwater Management Review” process including approval and disapproval standards, required review timelines, required comment letters, Modification to approved plan requests, directors authority to require plan revisions to address deficiencies noted during inspections and requirements for record drawings.
- In paragraph (g), formally paragraph (f), subsection (5), a new verbiage is proposed to explain “Exceptions” including when they can and cannot be granted.
- In paragraph (h), formally paragraph (g), subsection (1)a., new verbiage is proposed to require the recordation of the maintenance agreement in the county land records.
- In paragraph (h), formally paragraph (g), subsections (1)a., (1)b., (1)c. and (3) which was previously (4), provide new verbiage is proposed to clarify that the director in this section is to mean the Director of Public Works.
- In paragraph (h), formally paragraph (g), subsection (3), has been deleted as it is already a requirement of the new VSMP permits.

**Sec. 14-24. – Violations**

- Paragraph (a), Conflicting Provisions, has been updated to reference the Water Control Board and delete Soil and Water Conservation Board.
- Paragraph (b), Penalties, has been completely re-written to address permit violations, the process of notifications, the authority for the issuance of penalties when it is determined that there is a failure to comply with the permit conditions and the actual penalties that can be assessed to the owner.

**Sec. 14-25. – Hearings**

- This is a new section developed to explain the rights for a hearing as well as the actual hearing process regarding land disturbing activities in the Town.

**Sec. 14-26. – Appeals**

- This is a new section developed to explain the appeals process regarding land disturbing activities in the Town.

**A Summary of the proposed changes to the Land Development Fee Schedule include the following:**

**The Town of Leesburg Land Development Review and Inspection Schedule** has been revised to modify fees for **Site Plan Waiver Applications**: (For the entire *Redlined* document changes related to Site Plan Waivers, please reference the attached “**Ordinance for Fee Schedule Changes Attachment #1**”)

- For “Residential” applications, the base fee has not been altered but is now for two submissions instead of only one. There has been a \$250 fee added for subsequent

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submissions after the second submission. (It had previously been \$250 per every submission) However, if public improvements are proposed, inspection fees will need to be added to that base submission fee. This fee structure is more representative of actual review time.

- A new and separate fee structure has been set up for “Non-Residential” applications.

*Attachment “A”* is being added to the *Town of Leesburg Land Development Review and Inspection Schedule* to cover the new fees associated with the Town now reviewing and performing inspections for all VSMP permits previously done by DEQ. (For the entire *Redlined* document, please reference the attached **“Ordinance for Fee Schedule Changes Attachment #2 (SWM Fees)”**)

**WARNING...Several of the attached documents (especially the Town Code and DCSM revisions) are quite large!!!! Therefore, you may not want to print them.**

**Attachments:**

1. Resolution No. 2013-045 Initiating Staff to update Town ordinances to generally conform to the Virginia’s stormwater model ordinance.
2. Resolution No. 2014-003 Initiating Staff to send updated draft Town ordinances that generally conform to the Virginia’s stormwater model ordinance to DEQ for review and comment.
3. Advertisement for SLDR Changes
4. Advertisement for DCSM Changes
5. Advertisement for Town Code Changes
6. Advertisement for Fee Schedule Changes
7. Proposed Changes to the DCSM Please reference Word Document entitled: “*Ordinance for DCSM Changes Attachment #1*”; or for a more detailed version with notes and highlights, please reference the PDF version “*DCSM Changes with explanation notes and highlights*”” .
8. Proposed Changes to the SLDR Please reference Word Document entitled: “*Ordinance for SLDR Changes Attachment #1*”.
9. Proposed Changes to the Town Code; Please reference Word Document entitled: “*Ordinance for Town Code Changes Attachment #1*”; or for a more detailed version with notes and highlights, please reference the PDF version “*Town Code Changes with explanation notes and highlights*”.
10. Proposed Changes to the Land Development Fee Schedule - Revisions to Site Plan Waiver Fees; Please reference Word Document entitled: “*Ordinance for Fee Schedule Changes Attachment #1*”.
11. Proposed Changes to the Land Development Fee Schedule – New Stormwater Management Fees; Please reference Word Document entitled: “*Ordinance for Fee Schedule Changes Attachment #2 (SWM Fees)*”.
12. Ordinance for DCSM SWM Changes 5-13-14
13. Ordinance for SLDR SWM Changes 5-13-14
14. Ordinance for Town Code SWM Changes 5-13-14
15. Ordinance for Fee Schedule Changes 5-13-14

The Town of  
**Leesburg,  
Virginia**

PRESENTED March 12, 2013

RESOLUTION NO. 2013-045

ADOPTED March 12, 2013

A RESOLUTION: INITIATING AMENDMENTS TO THE TOWN CODE, CHAPTER 14 (ENVIRONMENT), ARTICLE II (STORMWATER MANAGEMENT), SECTIONS 14-19 THROUGH 14-26, TO CONFORM TO VIRGINIA STATE CODE AND ATTENDING REGULATIONS REGARDING STORMWATER MANAGEMENT

WHEREAS, Leesburg Town Code, Chapter 14 (Environment), Article II (Stormwater Management), Sections 14-19 through 14-24 set forth town ordinances regarding the management of stormwater facilities throughout the town; and

WHEREAS, in 2011, the General Assembly enacted amendments to the Virginia Stormwater Management Act (State Code sections 10.1-603.2 et seq.), State Water Control Act (state stormwater management program-VSMP-permit regulations at 4 VMAC 50-60 et seq.) and Virginia Erosion and Sediment Control Law (State Code sections 10.1-560 et seq. and attendant regulations at 4 VAC 50-30 et seq.) in order to conform to the Federal Clean Water Act; and

WHEREAS, the town consulted with AMEC Environment & Infrastructure ("AMEC") to assist in the necessary amendments to the town code to conform with the new state regulations; and

WHEREAS, a preliminary draft of the town code amendments must be submitted to the Virginia Department of Conservation and Recreation (DCR) by April 1, 2013; and

WHEREAS, if submitted to DCR by April 1, 2013, the Town may request an extension until July 1, 2014, to adopt and implement the amendments to the town code; and

WHEREAS, AMEC has advised town staff to submit the proposed town code amendments to DCR by April 1, 2013, and request an extension to adopt and implement the ordinance changes by July 1, 2014.

A RESOLUTION: INITIATING AMENDMENTS TO THE TOWN CODE, CHAPTER 14 (ENVIRONMENT), ARTICLE II (STORMWATER MANAGEMENT), SECTIONS 14-19 THROUGH 14-26, TO CONFORM TO VIRGINIA STATE CODE AND ATTENDING REGULATIONS REGARDING STORMWATER MANAGEMENT

THEREFORE, RESOLVED, by the Council of the Town of Leesburg that:

1. Amendments to Town Code stormwater management provisions are hereby initiated to conform with state code requirements; and
2. Town staff may request an extension from DCR to adopt and implement the town code amendments to July 1, 2014, as recommended by the town's consultant.

PASSED this 12<sup>th</sup> day of March, 2013.

  
Kristen C. Umstadd, Mayor  
Town of Leesburg

ATTEST:  
  
Clerk of Council

The Town of  
**Leesburg,  
Virginia**

PRESENTED January 14, 2014

RESOLUTION NO. 2014-003

ADOPTED January 14, 2014

A RESOLUTION: AUTHORIZING STAFF TO SEND THE TOWN'S LATEST DRAFT STORMWATER REGULATIONS TO THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR COMPLIANCE REVIEW WITH THE NEW VIRGINIA STORMWATER MANAGEMENT PROGRAM REGULATIONS.

WHEREAS, the Town Code and the Leesburg Design and Construction Standards Manual (DCSM), set forth Town ordinances and regulations for the Town's stormwater management regulations for water quality and water quantity; and

WHEREAS, the Commonwealth of Virginia adopted new minimum standards and requirements for the regulation of stormwater through amendments to the Virginia Stormwater Management Program (VSMP) Regulations on September 13, 2011; and

WHEREAS, the Virginia Department of Environmental Quality (DEQ) drafted a "model" stormwater management ordinance in which the final modifications were not approved by the State Water Control Board until December 17, 2013; and

WHEREAS, this final guidance approved by the State Water Control Board on December 17, 2013 still required local jurisdictions to submit their draft stormwater ordinance revisions to DEQ not later than January 15, 2014; and

WHEREAS, all DEQ comments must then be addressed, the new stormwater ordinances adopted by Town Council and the final adopted package sent back to DEQ for final approval not later than May 15, 2014; and

WHEREAS, the localities shall implement the new stormwater regulations not later than

A RESOLUTION: AUTHORIZING STAFF TO SEND THE TOWN'S LATEST DRAFT STORMWATER REGULATIONS TO THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR COMPLIANCE REVIEW WITH THE NEW VIRGINIA STORMWATER MANAGEMENT PROGRAM REGULATIONS

July 01, 2014, and

WHEREAS, this implementation deadline does not allow for any additional modifications or further delays by DEQ or the State Water Control Board; and

WHEREAS: the DEQ now oversees all stormwater regulations for all local jurisdictions to ensure they comply with the States minimum requirements for stormwater management (including water quantity, water quality and adequate outfall); and

WHEREAS, Staff has developed the required amendments to the Leesburg Town Code and the DCSM to conform to the new minimum Virginia stormwater regulations; and

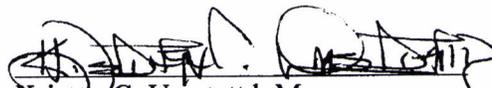
WHEREAS, Staff has met with the EAC and members of the private sector to provide an over view of the new Town regulations and incorporated their comments to the extent possible while still meeting the minimum requirements of the State.

THEREFORE, RESOLVED, by the Council of the Town of Leesburg that Staff is hereby authorized to send the most recent draft revisions of the Leesburg Town Code and the DCSM stormwater ordinances and regulations along with a summary of all changes, applicable DEQ charts & checklists, the Town's proposed funding and staffing plan, a proposed Stormwater Management Fee Schedule, applicable staff standard operating procedures, deed language for privately maintained stormwater facilities, and other supporting data to DEQ for their compliance review of these documents with the new VSMP Regulations.

A RESOLUTION: AUTHORIZING STAFF TO SEND THE TOWN'S LATEST DRAFT STORMWATER REGULATIONS TO THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY FOR COMPLIANCE REVIEW WITH THE NEW VIRGINIA STORMWATER MANAGEMENT PROGRAM REGULATIONS

BE IT FURTHER RESOLVED, the Council of the Town of Leesburg requests that DEQ provide prompt and expeditious review of all stormwater ordinance and related documents with no further changes to the guiding requirements.

PASSED this 14<sup>th</sup> day of January, 2014.

  
Kristen C. Umstatt, Mayor  
Town of Leesburg

ATTEST:

  
\_\_\_\_\_  
Clerk of Council

## Lee Ann Green

---

**From:** Dennis Darnes  
**Sent:** Wednesday, April 30, 2014 10:07 AM  
**To:** Gary VanAlstyne (gary.vanalstyne@lcps.org); Cody Francis; Michael Sell (msell@bowmanconsulting.com); Travis Spicer (Travis.J.Spicer@Lowes.com); Todd Simmons (TSimmons@fk-inc.com); Mark Jerussi (mjerussi@pennoni.com); John Maxwell (jwmaxwel@sheetz.com); P. E. Hamid Matin (h.matin@pdg-eng.com); Tom Gemmell (tgemmell@sandyspringbank.com); Steven R. Brown (sbrown@brhgroup.com); Ted Kalriess (tkalriess@kcmbuild.com); Louise Zwicker (lzwicker@gordon.us.com); mcollier@uniwestco.com; Bum Phillips; ashuckra@keaneenterprises.com; Jerry Dove (jdove@bowmanconsulting.com); Blair White (blair@landmarkcre.com); bwhite@landmarkcre.com; Bob Patel (bmp802@yahoo.com); Johnson, Joe; Carla Coffey (ccoffey@arcadiacompanies.com); Bill Fissel; Richard Kieler; Blackburn, Susan M. (SBlackburn@loudounwater.org); David L. Bowers (david.bowers@stantec.com); Faron Lee (faron@sesco.com); cheidorn@chipotle.com; Chuck Wallach (ebwallach@towercompanies.com)  
**Cc:** William R. Ackman; Lee Phillips  
**Subject:** FW: Vesting and Grandfathering as it relates to the New Stormwater Regulations  
**Attachments:** CGPRegistrationStatement2014.pdf; 9VAC25-880-VPDESConstructionSWGPRRegulation.pdf

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**From:** William R. Ackman  
**Sent:** Tuesday, April 29, 2014 12:15 PM  
**To:** Listserv LocalEngBlast; Listserv LocalPlanningBlast  
**Cc:** Plan Review; Planning; Capital Projects Department; Public Works Townhall  
**Subject:** Vesting and Grandfathering as it relates to the New Stormwater Regulations

Dear Applicant,

Please be advised that the United States Environmental Protection Agency (EPA) has mandated that all states which have drainage sheds that flow into the Chesapeake Bay adopt more stringent stormwater management regulations. As the Commonwealth of Virginia falls into this category, the Virginia Department of Environmental Quality (DEQ) has developed a new minimum standards model ordinance for the management of stormwater. DEQ then mandated that all localities which have drainage sheds to the Chesapeake (includes the Town of Leesburg) develop and adopt new more stringent stormwater regulations that meet or exceed the minimum standards in their new model ordinance.

Therefore, the Town of Leesburg is sending this notice to you because our records indicate that you either have an active construction plan application processing through our land development process or that you have previously submitted a construction plan application to the Town but it is currently inactive. These regulations could cause a major re-design of your project unless one of the following criteria is met.

- Your project is considered “grandfathered” by the Commonwealth of Virginia for one 5-year permit cycle. What this means is: If your project had construction plans or some other land development application such as a rezoning, special exception or preliminary plat (all of which

must have included detailed stormwater management information) approved prior to July 1, 2012, you will have until June 30, 2019 to have obtained your general permit / VSPM permit and have your project 100% constructed.

- Your project may become “vested” by obtaining a general permit / VSPM permit from DEQ within the required time periods. If you are successful in obtaining these permits within the required timeframe, you will then have two 5-year permit cycles or until June 30, 2024 to have your project 100% constructed. Even if your project is grandfathered, you may still want to vest your project to get the extra 5-year permit cycle to complete the construction of your site.
- If you already have a general permit /VSMP permit for your project, you will want to make sure you keep it active and renew it within DEQ’s required time periods. It is our understanding that all renewals must be in place prior to July 1, 2014.

**Please be advised that the information provided herein is “a guide” and “for informational purposes only”. Therefore, the Town highly recommends that you check in with your consultant, attorney and even DEQ to ensure your project rights are fully protected.**

- At this time, all construction general permit / VSMP renewals must be done through DEQ; The localities are not designated to begin processing these permits until July 1, 2014. DEQ has established a webpage to assist with the construction permit / VSPM permit process at: <http://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPermits/ConstructionGeneralPermit.aspx>
- It is our understanding that all existing 2009 VSMP Permit Holders must file a 2014 VPDES Form and Permit Fee no later than June 1, 2014 and must update their SWPPP no later than 60 days after the date of coverage.
- It is our further understanding that all Non-VSMP Permittees must file both a 2009 and a 2014 VPDES Form and Permit Fee no later than June 30, 2014 and prepare a current SWPPP to fall under the current State Stormwater Management Regulations.

The “Draft” Stormwater changes to the Town Code, Design and Construction Standards manual and the Subdivision and land Development Regulations can be found on the Town’s web page at: <http://www.leesburgva.gov/index.aspx?page=19&parent=12562>

I have also attached a DEQ registration form as well as code references for the changing stormwater and permitting regulations.

**Again, this is the best information that we have received to date. Therefore, the Town highly recommends that you check in with your consultant, attorney and even DEQ to ensure you have the very latest forms and information so that your project rights are fully protected.**

The Town of Leesburg is not mandated to send out any notifications to specific project owners, applicants or consultants. Nonetheless, we wanted to try to get the word out to as many folks as

possible so that there would not be any surprises after July 1, 2014 and to try and give everyone a fair chance to vest their project under the old stormwater regulations if that is ones desire to do so.

Again, we have made an honest attempt to try and get this information out to as many folks as possible. However, in case we have inadvertently missed anyone, please feel free to share this e-mail.

I trust that you find this information useful.

Thanks,  
Bill

**William R. Ackman, Jr., P.E.**  
*Director, Department of Plan Review*  
**TOWN OF LEESBURG**  
**25 West Market Street**  
**Leesburg, VA 20176**  
**Phone 703-771-2740**  
**FAX 703-771-2724**

## Lee Ann Green

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**From:** Lee Phillips  
**Sent:** Tuesday, April 29, 2014 3:27 PM  
**To:** 'Jon Wood' (jwood@UrbanscapeUSA.com); rlanham@lansdownedevgroup.com; prcustomhomes@verizon.net; Andy Shuckra; Andre R. Fontaine (andre@envsystems.net); johnhe@homeproperties.com; jay.s.welch@verizon.com; Carla Coffey (ccoffey@arcadiacompanies.com); Andre@RealtyDiversifiedServices.com; jzachariasse@waterforddevelopmentllc.com; Rick Stark; faron@sescos.com  
**Cc:** Dennis Darnes; William R. Ackman  
**Subject:** FW: Vesting and Grandfathering as it relates to the New Stormwater Regulations 1  
**Attachments:** CGPRegistrationStatement2014.pdf; 9VAC25-880-VPDESConstructionSWGPRRegulation.pdf

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*Director, Department of Plan Review*

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