

PART II - TOWN CODE  
Chapter 14 - ENVIRONMENT  
ARTICLE II. - STORMWATER MANAGEMENT

AMEC Draft – January 27, 2013

ARTICLE II. - STORMWATER MANAGEMENT <sup>[12]</sup>

<sup>(12)</sup> **State Law reference**— Location regulation of stormwater, Code of Virginia, §§ 10.1-603.3, 10.1-603.7, 15.2-2114.

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**Sec. 14-19. - Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Applicant means any person requesting approval for a land-disturbing activity that is subject to the provisions of this article.**

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

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

*Conservation plan* means a document containing materials 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 will contain all major conservation decisions to ensure that the entire unit or group of units of land will be so treated to achieve the conservation objectives.

**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.**

**Comment [d1]:** The model has a definition of Administrator. It is not included since Sec. 14-21 clearly identifies the director as the person responsible for administering the regulations.

**Deleted:** means a practice, or combination of practices, that is determined by the director to be the most effective, practicable means of preventing or reducing nonpoint source pollution

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*DCSM* means the most recent edition of the town's design and construction standards manual.

***Department or DCR* means the Virginia Department of Conservation and Recreation.**

***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.**

*Director* means the director of plan review, or his designee, except where the context clearly indicates otherwise.

*Discharge* means to dispose, deposit, spill, pour, inject, dump, leak, or place by any means, or that which is disposed, deposited, spilled, poured, injected, dumped, leaked, or placed by any means.

*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 waters of the state. The term "erosion impact area" does not mean and include any lot or parcel of land 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from natural processes.

***General permit* means the state permit titled GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM CONSTRUCTION ACTIVITIES found in Part XIV (4VAC50-60-1100 et seq.) of the Virginia Stormwater Management Regulations authorizing a category of discharges under the CWA and the Virginia Stormwater Management Act within a geographical area of the Commonwealth of Virginia.**

*Highly erodible soil* means a soil (excluding vegetation) with an erodibility index from sheet and rill erosion equal to or greater than eight. The erodibility index for any soil is defined as the product of the formula  $RKLS/T$ , where K is the soil susceptibility to water erosion in the surface layer, R is the rainfall and runoff, LS is the combined effects of slope length and steepness, and T is the soil loss tolerance.

*Illicit discharge* means any discharge to the stormwater management system that is not composed entirely of stormwater, except discharges pursuant to either a VPDES permit or discharges resulting from firefighting activities. The term "illicit discharge" does not mean and include discharges listed in section 14-23(c), unless the town identifies such discharges as sources of pollutants to waters of the state.

*Impervious surface area* means a surface that is compacted or covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, parking areas, and other similar structures. Compacted gravel surfaces shall be considered impervious unless demonstrated to the contrary.

*Industrial waste* means liquid or other wastes resulting from any process of industry, manufacture, trade or business, or from the development of any natural resources.

*Intermittent stream* means a well defined natural or engineered channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream may lack some or all of the biological and hydrological characteristics commonly associated with the conveyance of water. The width of the intermittent stream extends from top-of-bank to top-of-bank of the channel. Acceptable

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methodologies for establishing the presence of intermittent flow are described in the DCSM.

**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 14-23(e)(6) of this article.**

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

*Low impact development* or *LID* means a design strategy with the goal of maintaining or replicating the predevelopment hydrologic regime through the use of design techniques to create a functionally equivalent hydrologic site design. Hydrologic functions that may be considered include storage volume, infiltration and ground water recharge through the use of integrated and distributed micro-scale stormwater retention and detention areas where the volume and frequency of discharges can be maintained through the reduction of impervious surfaces and/or the lengthening of runoff flow paths and flow time. Other strategies include the preservation of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, valuable (mature) trees, flood plains, woodlands, and highly permeable soils.

**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.**

*Municipal separate storm sewer* or *MS4* means the conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains):

- (1) Owned or operated by the state, the town or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity;
- (2) Designed or used for collecting or conveying stormwater;
- (3) Which is not a combined sewer; and
- (4) Which is not part of a publicly owned treatment works.

*Natural channel* means a nontidal waterway that is part of the natural topography and is generally characterized as being irregular in cross section with a meandering course. A natural channel does not include an engineered drainage swale or drainage ditch.

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

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

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*Perennial stream* means a body of water that flows in a natural or engineered channel year around during a year of normal precipitation. Lakes and ponds, through which a perennial stream flows, are part of the perennial stream. Generally, the water table is located above the streambed for most of the year and groundwater is the primary source for stream flow. The width of the perennial stream extends from top-of-bank to top-of-bank of the channel or to the limits of the normal water level for a pond or lake when there is no definable top-of-bank. Acceptable methodologies for establishing the presence of perennial flow shall be provided by the director.

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

*Point source pollution* means pollution of state waters resulting from any discernible, defined or discrete conveyances.

*Pollution* shall be defined by Code of Virginia, § 62.1-44.3.

*Predevelopment* means the land use that exists at the time that plans for development are submitted to the town. Where phased development or plan approval occurs, the land use at the time the first item is submitted shall establish predevelopment conditions.

*Postdevelopment* means the land use that reasonably may be expected or anticipated to exist after completion of the development activity on a specific site or tract of land.

**Regulations or VSMP regulations means the Virginia Stormwater Management Program (VSMP) Permit Regulations, 4VAC50-60, 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.**

**State means the Commonwealth of Virginia.**

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

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

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

*Stormwater maintenance agreement* means an agreement between a private property owner and the town that establishes the responsibilities for maintenance of stormwater management infrastructure.

**Stormwater management plan means a document(s) containing material describing methods for complying with the requirements of section 14-23(g) of this article.**

*Stormwater management system* means the series of structural and nonstructural stormwater

**Comment [d2]:** The Town indicated that it may not want to create a separate permit for conducting a land-disturbing activity. Therefore the terms permit and permittee have been left out. This approach is fine with DCR. However, if the Town does decide to create a new permit, these terms will need to be reinserted.

**Deleted:** runoff from rain, snow, or other forms of precipitation and surface runoff and drainage.

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infrastructure established to manage the quantity and or quality of stormwater runoff. The stormwater management system includes, but is not limited to, storm drains, catchbasins, inlets, pipes, open channels and ditches, facilities designed to control stormwater volume and velocity, and various BMPs designed to reduce stormwater pollution.

*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 article. 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.

**Deleted:** a plan consisting of steps and activities designed to identify potential sources of stormwater pollution or contamination and the establishment of practices that will prevent or reduce pollutants in stormwater runoff.

*Subdivision* means the same as defined in section 7.01 of the Subdivision and Land Development Regulations.

*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 Erosion and Sediment Control Law* means Article 4 (§10.1-561 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

**Comment [d3]:** Added in since we reference the E&SC under authority.

*Virginia Stormwater Management Act* means Article 1.1 (§10.1-603.2 et seq.) of Chapter 6 of Title 10.1 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 Virginia Soil and Water Conservation 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 includes such items as ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, and evaluation consistent with the requirements of the Virginia Stormwater Management Act and associated regulations.

**Comment [d4]:** The term VSMP authority is left out since that is the Town. DCR concurred.

*Water quality volume or WQV* means the volume equal to the first 0.5 inch of runoff multiplied by the total impervious area of the tax map parcel.

(Ord. No. 2007-0-21, § 1(21-4), 11-27-2007)

**Sec. 14-20. - Purpose and findings.**

The health, safety, and welfare of the residents of the town depends on the design, development, improvement, operation, maintenance, and oversight of a program to effectively manage stormwater (quantity and quality) as well as illicit discharge to include, but not be limited to, the prevention of flood events, degradation of the town's waterways, and erosion of the town's lands. Therefore, to protect the

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health, safety, and welfare of residents, the town council has adopted the following stormwater quantity and quality management and erosion and sediment control program.

(Ord. No. 2007-0-21, § 1(21-1), 11-27-2007)

**Sec. 14-21. - Authority.**

This article is issued under the authority of **the Virginia Stormwater Management Act, the State Water Control Law, the Virginia Erosion and Sediment Control Law, and their attendant regulations.**

(Ord. No. 2007-0-21, § 1(21-2), 11-27-2007)

**Sec. 14-22. - Administration.**

The director of plan review, hereby referred to as the director, is charged with responsibility for the administration of this article. The director may, at his discretion, delegate authority to implement this article.

(Ord. No. 2007-0-21, § 1(21-4), 11-27-2007)

**Sec. 14-23. - Program components.**

(a) *Elements.* The town stormwater quantity and quality management and erosion and sediment control program shall consist of the following elements:

(1) Illicit discharge detection and elimination;

**(2) VSMP compliance;**

**(3) Construction site stormwater control;**

**(4) Postconstruction stormwater control; and**

**(5) Stormwater management system maintenance.** It shall be unlawful to cause a stormwater discharge from a municipal separate storm sewer or a land disturbing activity without a permit from a permit issuing authority, unless such discharge is explicitly allowed without a permit under the provisions of this article.

(b) *Illicit discharge detection and elimination.* The following shall be the illicit discharge and detection and elimination requirements:

(1) *Discharges to the stormwater management system.* It is the intent of the town to prohibit the entry of any substance other than stormwater, whether liquid or solid, into the stormwater management system. For illustrative purposes, prohibited substances include, but are not limited to: waste, trash, and garbage; food and kitchen waste; leakage from dumpsters or trash containers; gasoline, waste oil, lubricants, grease, antifreeze, or any other automotive, motor, or equipment fluids; fertilizers, grass clippings, mulch, and any yard waste; any chemical or solvent; soluble and non-soluble metals; wash water, detergents, and cleaning agents; paints; plastics; soot, ash, and sludge; animal waste; eroded soils and sediment; carcasses; chlorinated swimming pool water; and, any material that impedes or interferes with the free flow of stormwater.

(2) *Unlawful.* It shall be unlawful to:

**Comment [d5]:** Simplified this section since the authorizing legislation is defined above.

**Deleted:** Code of Virginia, tit. 10.1, ch. 6, art. 1.1 (Code of Virginia, § 10.1-603.2 et seq.) and the state stormwater management program (VSMP) permit regulations (4 VAC 50-60 et seq.); and, the Code of Virginia, tit. 10.1, ch. 5, art. 4 (Code of Virginia, § 10.1-560 et seq.) and regulations (4 VAC 50-30 et seq.).

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- a. Cause or allow illicit discharges to the town's stormwater management system;
- b. Discharge materials other than stormwater to the stormwater management system by spills, dumping, or disposal without a VSMP permit;
- c. Cause or allow industrial waste to be discharged into the stormwater management system without a VSMP permit;
- d. Cause a connection to the stormwater conveyance system that will or has the potential to allow for an illicit discharge to enter the system; or
- e. Violate any condition or provision of this article or any permit granted for stormwater discharges.

(c) ~~Not unlawful discharge.~~ The following activities shall not be unlawful as illicit discharges subject to the provisions in subsection (d) of this section:

- (1) Water line flushing;
- (2) Landscape irrigation;
- (3) Diverting stream flows or rising groundwater;
- (4) ~~Uncontaminated groundwater infiltration;~~
- (5) **Uncontaminated pumped groundwater;**
- (6) **Discharges from potable water sources;**
- (7) **Foundation drains;**
- ~~(8) Air conditioning condensate;~~
- (9) ~~Irrigation water;~~
- (10) **Springs;**
- (11) **Water from crawl space pumps;**
- (12) **Footing drains;**
- (13) **Lawn watering;**
- (14) Individual **residential** car washing;
- (15) Flows from riparian habitats and wetlands;
- (16) Dechlorinated swimming pool discharges;
- ~~(17) Street washing; and~~
- (18) ~~Discharges or flows from firefighting activities.~~

(d) *Written notice.* If any of the activities listed in subsection (c) of this section are found by the

**Comment [d6]:** Suggest deleting. If it is allowed, it is not "illicit."

**Deleted:** *illicit*

**Comment [d7]:** The draft MS4 permit regulations are very similar to what is already in the Town Code. Minor modifications have been made in track changes.

**Deleted:** a

**Deleted:** Infiltration of u

**Deleted:** Pumping uncontaminated groundwater from potable water sources, foundation drains, irrigation waters, springs or water from crawl spaces or footing drains; ¶

**Deleted:** 7

**Deleted:** 8

**Deleted:** Lawn watering

**Deleted:** 9

**Deleted:** on residential properties

**Deleted:** 10

**Comment [d8]:** This is not in the permit. While this makes sense, there is no basis for an exemption.

**Deleted:** (11) Lawn fertilizer, provided it is applied in accordance with the manufacturer's recommendations;

**Deleted:** ¶

**Deleted:** 12

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director to be a source of pollutants to the waters of the state, the director shall serve written notice to the person performing such activities and shall order that such activities be stopped or conducted in such manner as to avoid the discharge of pollutants. The notice shall state the date by which the activity shall cease or be conducted without pollution. Failure to comply with any such order within the time stated in the notice shall constitute a violation of this article.

(1) *Inspections and sampling.* The following shall be the procedure for inspection and sampling:

a. The director shall have authority to enter onto public and private property to carry out all inspections, surveillance, and sampling procedures necessary to determine compliance and noncompliance with the conditions of the town's VSMP permit and this article, including the prohibition of illicit discharges to the stormwater management system. The director may sample stormwater outfalls or other components of the stormwater management system as may be appropriate in the administration and enforcement of this article.

b. If an illicit discharge as defined herein is detected, it shall be a violation of this article and the owner shall be notified in writing of the actions that must be taken to correct deficiencies along with a specific time for taking corrective action. If the corrective action is not performed within the specified time, the town may perform the necessary corrections and bill the property owner. If the owner fails to reimburse the town within 30 days, the town shall have a lien against the property in the amount of such costs, plus interest at the legal rate, and may enforce same in the same manner as a lien for real property taxes may be enforced. Any relief obtained under this section shall not prevent the town from seeking other and further relief authorized under the provisions of section 14-24

c. The director is authorized to require immediate abatement of any violation of this article that constitutes an immediate threat to the health, safety or well-being of the public. If any such violation is not abated immediately as directed by the director, the town, or its designated contractor, is authorized to enter onto private property and take any and all measures required to remediate the violation. Any expense related to such remediation undertaken by the town shall be fully reimbursed by the property owner and/or responsible party. Any relief obtained under this section shall not prevent the town from seeking other and further relief authorized under the provisions of section 14-24

d. If deemed necessary to prevent future occurrences of illicit discharges, the director shall have the authority to require a stormwater pollution prevention plan, as set forth in the DCSM, from any person whose discharge causes, or may cause, a violation of this article.

(2) *Erosion impact areas and environmentally sensitive areas.* The following shall be the provisions to determine erosion impact areas and environmentally sensitive areas:

a. The town council may designate portions of the town as erosion impact areas after conducting an investigation and a public hearing. The designated area may consist of a single parcel, or multiple parcels, and may include parcels where there is no active erosion, but where sheet flow from the parcel causes or significantly contributes to erosion on adjacent parcels.

b. The director may require the development of a conservation plan for any portion of the town designated as an erosion impact area.

c. Areas of the town consisting of slopes greater than 25 percent or consisting of highly

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erodible soils shall be designated as environmentally sensitive areas.

d. When a parcel in an erosion impact area or an environmentally sensitive area is subject to the construction site stormwater runoff controls of subsection (f) of this section or the postconstruction stormwater runoff controls of subsection (g) of this section, the director may, as a condition of approval, require the development and implementation of a conservation plan.

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**(e) VSMP compliance.** Except as provided herein, no person may engage in any land-disturbing activity, and no grading, building, land disturbing, or similar permit shall be issued for a property, until the items required by this section are submitted to and approved by the director.

**Comment [d9]:** This section has been modified to eliminate a requirement for a separate permit. Rather, all other land-disturbing permits are contingent on these elements being reviewed and approved by the director. This approach is acceptable (and actually preferred) by DCR. However, if the Town wants to have a separate permit, this section will need to be modified accordingly.

**(1) VSMP compliance elements.**

- a. A permit application on a form provided by the director that includes a general permit registration statement;
- b. Evidence of general permit coverage;
- c. A stormwater pollution prevention plan in accordance with subsection (2) below;
- d. Compliance with construction site stormwater control requirements in subsection (f), including an approved erosion and sediment control plan and pollution prevention plan; and,
- e. Compliance with postconstruction stormwater control requirements in subsection (g), including an approved stormwater management plan, and compliance with stormwater management system maintenance requirements in subsection (h).

**(2) Stormwater pollution prevention plan.**

- a. The stormwater pollution prevention plan required by the general permit must comply with the requirements set forth in 4VAC50-60-54 and the terms of the general permit.
- b. The stormwater pollution prevention plan must be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to waters of the state and that is not addressed in the existing plan.
- c. The stormwater pollution prevention plan must be maintained at a central location onsite. If an onsite location is unavailable, notice of the plan's location must be posted near the main entrance at the construction site. Operators must make the plan available for public review in accordance with the general permit, either electronically or in hard copy.

**(3) Fees and bonds.** All fees required to be paid pursuant to section 1.04 of the Subdivision and Land Development Regulations must be received and the performance bonding requirements pursuant to division 6 of the Subdivision and Land Development Regulations must be satisfied.

**Comment [d10]:** The referenced documents (section 1.04 and division 6 of the SLDR) need to be updated accordingly. In particular, fees authorized by the stormwater regulations will need to be incorporated into the Town's fee schedule.

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(4) **Grandfathering.** The grandfathering provisions of 4VAC50-60-48 shall apply.

(5) **Monitoring and inspections.**

a. The director shall inspect land-disturbing activities for:

1. Compliance with the approved erosion and sediment control plan;
2. Compliance with the approved stormwater management plan;
3. Development, updating, and implementation of the pollution prevention plan;
4. Development and implementation of any additional control measures necessary to address a TMDL.

b. The director, at reasonable times, and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of VSMP compliance elements.

c. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the director may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.

d. Pursuant to § 10.1-603.12:2 of the Code of Virginia, the director may require every person subject to VSMP compliance elements to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.

e. Post-construction inspections of stormwater management facilities required by the provisions of this article shall be conducted by the director pursuant to the town's adopted and Virginia Soil and Water Conservation Board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in section (h).

(6) **Exemptions.** The following activities are exempt from the compliance elements in subsection (1) above unless otherwise required by town code or state or federal law:  
a. Any land disturbance that requires only a site plan waiver or a standard zoning permit;

b. Any land disturbance that is less than one acre and is not part of a common plan of development or sale that will result in a land-disturbing activity of one acre or greater provided that the requirement for an erosion and sediment control plan in subsection (f) is met and that all postconstruction stormwater control requirements in subsection (g) are met;

c. Discharges to a sanitary sewer or a combined sewer;

**Comment [d11]:** There are a number of exemptions that aren't applicable to the Town. These have been streamlined as appropriate.

**Deleted:** ¶

**Comment [d12]:** This is in accordance with discussions with the Town to reduce the exemption to the degree possible given the TMDL requirements.

**Comment [d13]:** This section recognizes that for development under one acre, but more than (a) above, the Town still wants an E&SC plan and compliance with water quality requirements. A question is whether the Town wants to still apply the quantity controls here as well (which means the only things not included are the SWPPP, pollution prevention plan, and general permit).

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d. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of a project. The paving of existing road with a compacted or impervious surface and re-establishment of existing ditches and shoulders is deemed routine maintenance if performed in accordance with this subsection;

e. 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 director shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with this article shall be required within 30 days of commencing the land-disturbing activity;

f. Land disturbances associated with permitted or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;

g. Land clearing for agricultural or silvicultural purposes, and related activities, in accordance with section 10.1-603.8.C.2 of the Code of Virginia; and,

h. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use.

**(f)** Construction site stormwater control. The following shall be the construction site stormwater control provisions:

Deleted: e

(1) *Minimum requirements.* Any proposed disturbance of the natural terrain of any subdivision or development where the disturbed area is greater than 500 square feet or includes the removal or addition of soil in excess of 12 inches in depth shall comply with the town's DCSM and land subdivision ordinance.

(2) *Erosion and sediment control plan.* All proposed land disturbance shall be subject to the following construction site stormwater control requirements prior to any clearing of the site or issuance of any building, land use, or land development permit:

a. An erosion and sediment control plan approved by the director and for disturbances over 500 square feet. In addition to director approval, for all disturbances 10,000 square feet or greater, a grading/land disturbance permit is required to be obtained from the county department of building and development.

b. Documentation that any and all necessary permits and plans have been obtained including but not limited to permits required to meet the state pollution discharge elimination system permit regulations, wetlands permits, county grading permits as well as FEMA conditional letters of map revision.

c. The erosion and sediment control plan shall be of sufficient detail to demonstrate, to the satisfaction of the director, compliance with the provisions of DCSM and the state erosion and sediment control handbook, whichever is more restrictive.

**(3) Pollution prevention plan. A pollution prevention plan, required by 4VAC50-60-56, must detail the design, installation, implementation, and maintenance of effective pollution**

**Comment [d14]:** The pollution prevention plan is related to construction site activities. Therefore this requirement is proposed to be added here. While the E&S requirements are reviewed by the County, AMEC is assuming at this point that the Town will review the pollution prevention plan separately.

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prevention measures to minimize the discharge of pollutants.

a. At a minimum, such measures must be designed, installed, implemented and maintained to achieve the following:

1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and,
3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

b. The pollution prevention plan shall include effective best management practices to prohibit the following discharges:

1. Wastewater from washout of concrete, unless managed by an appropriate control;
2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
3. Fuels, oils, or other pollutants used in vehicle and equipment operations and maintenance; and,
4. Soaps or solvents used in vehicle equipment washing;

c. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls.

(g) Postconstruction stormwater control. The following shall be the postconstruction stormwater control provisions:

(1) Minimum requirements. All development, redevelopment, and land disturbing activities regulated pursuant to this article within the town shall comply with the DCSM and the technical criteria for land disturbing activities set forth in the regulations, as amended, whichever is greater, expressly to include 4VAC50-60-63 (water quality design criteria requirements), 4VAC50-60-65 (water quality compliance), 4VAC50-60-66 (water quantity), 4VAC50-60-72 (design storms and hydrologic methods), 4VAC50-60-74 (stormwater harvesting), 4VAC50-60-72 (linear development), 4VAC50-60-85 (stormwater management impoundment structures or facilities), and 4VAC50-60-92 (comprehensive stormwater management plans).

(2) Stormwater management plan. The stormwater management plan must apply the stormwater technical requirements of (1) above to the entire land disturbing activity and consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff. The plan shall contain maps, charts, graphs, tables,

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Comment [d15]: The Town will need to determine what will still be kept in the DCSM. However, this does not need to be included in our initial submittal to DCR before April 1<sup>st</sup>.

Deleted: uses

Deleted: the state stormwater management handbook, whichever is more restrictive.

Comment [d16]: This section has been updated directly from the model ordinance.

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photographs, narrative descriptions, explanations, calculations, and citations to supporting references as appropriate to communicate the information required by this article. At a minimum, the stormwater management plan must contain the following:

- a. Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters, and the pre-development and post-development drainage areas.
- b. Contact information including the name, address, and telephone number of the owner and the tax reference and parcel number of the property or properties affected.
- c. A narrative that includes a description of current site conditions and final site conditions.
- d. 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.
- e. Information on the proposed stormwater management facilities, including:
  1. The type of facilities;
  2. Location, including geographic coordinates;
  3. Acres treated; and,
  4. The surface waters into which the facility will discharge.
- f. Hydrologic and hydraulic computations, including runoff characteristics.
- g. Documentation and calculations verifying compliance with the water quality and water quantity requirements of (1) above.
- h. A map or maps of the site that depicts the topography of the site and includes:
  1. All contributing drainage areas;
  2. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
  3. Soil types, relevant geological formations, forest cover, and other vegetative areas;
  4. Current land use including existing structures, roads, and locations of known utilities and easements;
  5. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
  6. The limits of clearing and grading, and the proposed drainage patterns on the site;
  7. Proposed buildings, roads, parking areas, utilities, and stormwater

**Deleted:** Any development, redevelopment, or use subject to the postconstruction stormwater control requirements contained here within shall be subject to a stormwater management plan being approved by the director prior to any clearing of the site or issuance of any building, land use, or land development permit.

**Deleted:** The stormwater management plan shall be of sufficient detail to demonstrate, to the satisfaction of the director, compliance with the provisions of the DCSM and the state stormwater management handbook, whichever is more restrictive.

**Deleted:** The stormwater management plan shall include a copy of any and all permits and plans, including any individual or general permit for stormwater discharges associated with industrial activity, required to meet the state stormwater management program permit regulation set forth in 4 VAC 50-60-1170 et seq.

**Deleted:**

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management facilities; and,

8. 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.

i. If an operator intends to meet the water quality requirements set forth in (1) above through the use of off-site credits in accordance with section (3), then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by section 10.603.8:1 of the Code of Virginia. Elements of the stormwater management plan that include activities regulated under Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

k. A construction record drawing for permanent stormwater management facilities shall be submitted to the director. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia certifying that the stormwater facilities have been constructed in accordance with the approved plan.

(3) *Nutrient credit offsets.*

a. The director shall allow operators to utilize off-site compliance options in accordance with 4VAC50-60-69 under the following conditions:

1. Less than five acres of land will be disturbed;
2. The postconstruction phosphorus control requirement is less than 10 pounds per year; or,
3. At least 75% of the required phosphorus nutrient reductions are achieved on-site. If at least 75% of the required phosphorus nutrient reductions cannot be met on-site, and the operator can demonstrate to the satisfaction of the director that (i) alternative site designs have been considered that may accommodate on-site best management practices, (ii) on-site best management practices have been considered in alternative site designs to the maximum extent practicable, (iii) appropriate on-site best management practices will be implemented, and, (iv) full compliance with postdevelopment nonpoint nutrient runoff compliance requirements cannot practicably be met on-site, then the required phosphorus nutrient reductions may be achieved, in whole or in part, through the use of off-site compliance options.

b. The director may establish criteria for an operator to use nutrient credits in accordance with § 10.1-603.8:1 of the Code of Virginia to meet required phosphorus reductions that do not meet the conditions of subsection a of this section.

c. Notwithstanding subsections a and b of this section, offsite options shall not be allowed:

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**Comment [d17]:** This language provides the director with the flexibility to establish additional criteria for the use of nutrient credits. DCR suggested giving the director the authority to develop criteria, rather than trying to include the criteria in the ordinance itself.

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1. Unless the selected offsite option achieves the necessary nutrient reductions prior to the commencement of the operator's land-disturbing activity. In the case of a phased project, the operator may acquire or achieve offsite nutrient reductions prior to the commencement of each phase of land-disturbing activity in an amount sufficient for each phase.

2. In contravention of local water quality-based limitations at the point of discharge that are (i) consistent with the determinations made pursuant to subsection B of § 62.1-44.19:7 of the Code of Virginia, (ii) contained in the town's MS4 program plan accepted by the department, or (iii) as otherwise may be established or approved by the Virginia Soil and Water Conservation Board.

**(4) Stormwater management plan review.**

a. The director shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:

1. The director shall determine the completeness to review a plan in accordance with section (f)(2) of this section, and shall notify the applicant, in writing, of such determination, within 15 calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.

2. The director shall have an additional 60 calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subsection (a), then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.

3. The director shall review, any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.

4. During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this chapter.

5. If a plan meeting all requirements of this article is submitted and no action is taken within the time provided above in subsection (b) for review, the plan shall be deemed approved.

b. Approved stormwater plans may be modified as follows:

1. Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the director. The director shall

**Comment [d18]:** Based on the last discussion with the Town, this process will be kept in this article. In reality, the Town will change its processes and checklists to make this seamless with E&SC and other development review processes.

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have 60 calendar days to respond in writing either approving or disapproving such request.

2. The director may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during inspection.

3. The director shall require the submission of a construction record drawing for permanent stormwater management facilities. The director may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to (g) below. (5) *Exceptions.*

a. The director may grant exceptions to the technical requirements of (1) above provided that the exception is the minimum necessary to afford relief, reasonable and appropriate conditions are imposed so that the intent of this article is preserved, granting the exception will not confer any special privileges that are denied in other circumstances, and exception requests are not based on conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception.

1. Exceptions to the requirement that the land-disturbing activity obtain a general permit shall not be given by the director, nor shall the director approve the use of a BMP not found on the Virginia BMP Clearinghouse website or any other control measure duly approved by the Department.

2. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 4VAC50-60-69 have been considered and found not available.

b. The director may grant exceptions to the water quantity requirements of 4VAC50-60-66 in cases where stormwater detention would conflict with the town's flood management programs.

(h) *Stormwater management system maintenance.* The following shall be the stormwater management system maintenance requirements:

(1) *Minimum maintenance requirements.* The owner of any component of the stormwater management system shall provide adequate maintenance to ensure that the system functions as designed. The following requirements apply to all existing and future facilities constructed in the town:

a. The owner shall enter into a maintenance agreement with the town that outlines facility-specific maintenance requirements. **The maintenance agreement shall be set forth in an instrument recorded in the county land records and shall provide all necessary provisions to ensure compliance with this section.** Maintenance agreement forms shall be prepared in a format acceptable to the director and the town attorney.

b. On completion of construction and town approval of a new BMP or system of BMPs, the owner shall enter into a two-year performance for maintenance bond with the town in an

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**Comment [d19]:** The Town expressed concern about whether it would be able to waive requirements that conflicted with flood control requirements and plans. DCR had not considered this aspect (the City waiving a requirement as opposed to a developer asking for a waiver). They understand what the Town wants to do, but will need to get back to us with guidance.

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amount approved by the director as being equivalent to two years of routine maintenance of the facility. Performance for maintenance bond forms shall be provided by the director. The performance for maintenance bond shall be released only after an inspection by the director determines that the facility has been maintained and functions as designed.

**c. The owner shall prepare and submit an annual certification of maintenance to the town.**

1. Certification shall be made by a registered engineer or licensed surveyor (qualified to perform such routine inspections) using a certification of maintenance form provided by the director.
2. Such certification shall state the general condition of the facility and also state whether the infrastructure is functioning properly as originally designed.
3. If the facility is not functioning as designed, a plan for proposed remedial actions and a timeline for completion shall be noted in the certification report. The plan and timeline for completion are subject to the approval of the director. If the director determines that the proposed plan and timeline for completion is insufficient to protect the public health, safety, and welfare, the owner of the facility must either submit a new plan and timeline, or alternatively, the director may take action in accordance with subsection (d)(2) of this section. Once remedial actions have been completed, the owner shall submit a new certification in accordance with subsections (g)(1)a and b of this section.

(2) *Inspections and access.* The owner shall provide the town with access to the facility to perform quality assurance and performance inspections. Failure to provide access shall be considered a violation of this article under section 14-24. If inadequate maintenance is observed by the town, the owner shall be notified in writing of the actions that must be taken to correct deficiencies along with a specific time for taking corrective action. If the corrective action is not performed within the specified time, the town may perform the necessary corrections and bill the property owner. If the owner fails to reimburse the town within 30 days, the town shall have a lien against the property in the amount of such costs, plus interest at the legal rate, and may enforce same in the same manner as a lien for real property taxes may be enforced. In addition to performing required maintenance, sanctions may be imposed as provided in section 14-24

~~(3) *Applicable facilities.* The director shall have the ability to enforce the maintenance requirements noted herein for all stormwater systems within the town's corporate limits to include proposed facilities as well as existing facilities.~~

(Ord. No. 2007-0-21, § 1(21-5), 11-27-2007)

**Sec. 14-24. - Violations.**

(a) *Conflicting provisions.* If the penalties noted herein should ever contradict with, **or be less than,** future penalties implemented by the state soil and water conservation board, the penalties defined by the state soil and water conservation board shall govern and supersede those noted herein.

**(b) Penalties.**

**Comment [d20]:** The new regulations require that each owner provides proof of maintenance and inspections. Since the Town already does this, no major revisions are expected.

**Comment [d21]:** This section references the VPDES industrial SWPPPs. They are required to provide these to the Town in the industrial permits, so this is redundant.

**Deleted: (3) *Stormwater pollution prevention plans.*** The owner shall, on an annual basis, provide the town with proof of compliance with any stormwater pollution prevention plan developed to comply with the state pollutant discharge elimination system permit regulation set forth in 9 VAC 25-31 et seq., or section 5-100 et seq., of the DCSM. ¶

**Deleted: 4**

**Comment [d22]:** Replaced this section with language from model ordinance providing additional authority for the Town.

**Deleted: (b) *Civil penalty.*** The following shall be the civil penalties for violation of this chapter:  
(1) Any person who, intentionally or otherwise, commits any of the acts prohibited by section 14-23(b) shall be liable to the town for all costs of testing, containment, cleanup, abatement, removal, and disposal of any substance unlawfully discharged into the stormwater management system. ¶  
(2) Without limiting the remedies that may be obtained under this section, the town may bring a civil action against any person for violation of this article. The action may seek the imposition of a civil penalty of not more than \$2,000.00 against the person for each violation. ¶  
(3) The town may petition the circuit court to enjoin a violation or a threatened violation of this article without the necessity of showing that an adequate remedy at law does not exist. ¶  
(4) In lieu of section 14-24(b)(2), with the consent of any person who has violated or failed, neglected or refused to obey the provisions of this article, the town may provide, in an order issued by the director against such person, for the payment of civil charges for violations, in specific sums, not to exceed the limit specified in section 14-24(b)(2). Such civil charges shall be in lieu of any appropriate civil penalty, which could be imposed under section 14-24(b)(2). ¶  
(5) The remedies set forth in this section shall be cumulative, not exclusive, and it shall not be a defense to any action that one or more of the remedies set forth in this section has been sought or granted. ¶  
(6) Civil penalties imposed as a result of this section shall be paid into the town's general fund, except that where the violator is the town itself or its agent, the civil charges shall be paid into the treasury of the commonwealth.

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(1) If the director determines that there is a failure to comply with the permit conditions, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by registered or certified mail to the address specified in the permit application, or by delivery at the site of the development activities to the agent or employee supervising such activities.

a. The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection b or the permit may be revoked by the director. The director may also pursue enforcement in accordance with this section.

b. If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the director may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with (local procedures). Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the director. However, if the director finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the director may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with subsection 2.

Comment [d23]: Need to define.

(2) In addition to any other remedy provided by this article, if the director or his or her designee determines that there is a failure to comply with the provisions of this article, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with [reference local public facilities/engineering manual and/or specific policy].

(3) Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, or any permit condition issued by the director or any provisions of this

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article may be compelled in a proceeding instituted in any appropriate court by the town to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

(4) Any person who violates any provision of this article or who fails, neglects or refuses to comply with any order of the town, the department, Virginia Soil and Water Conservation 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.

a. Violations for which a penalty may be imposed under this subsection shall include but not be limited to the following: i) no permit registration, ii) no stormwater pollution prevention plan, iii) incomplete stormwater pollution prevention plan; iv) stormwater pollution prevention plan not available for review; v.) no approved erosion and sediment control plan; vi) failure to install stormwater BMPs or erosion and sediment controls; vii) stormwater BMPs or erosion and sediment controls improperly installed or maintained; viii) operational deficiencies; ix) failure to conduct required inspections; x) incomplete, improper, or missed inspections.

b. The town 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 also the economic benefit to the violator from noncompliance.

d. Any civil penalties assessed by a court as a result of a summons issued by the town shall be paid into the treasury of the town to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.

(5) 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 town 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.

(6) Any person who knowingly violates any provision of this chapter, any regulation or order of the Virginia Soil and Water Conservation Board or the town, any condition of a permit or any order of a court as herein provided, or who knowingly makes any false statement in any form required to be submitted under this article or knowingly renders inaccurate any monitoring device or method required to be maintained under this article, shall be guilty of a felony punishable by a term of imprisonment of not less than one year

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nor more than three years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 nor more than \$50,000 for each violation.

Any defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine of not less than \$10,000. Each day of violation of each requirement shall constitute a separate offense.

(7) Any person who knowingly violates any provision of this chapter, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years nor more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection, be sentenced to pay a fine not exceeding the greater of \$1 million or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment for any subsequent conviction of the same person under this subsection.

(Ord. No. 2007-0-21, § 1(21-6), 11-27-2007)

**Sec. 14-25. - Hearings.**

(a) Any applicant, or person subject to this article aggrieved by any action of the town taken without a formal hearing, or by inaction of the town, may demand in writing a formal hearing by the town council, provided a petition requesting such hearing is filed with the director within 30 days after notice of such action is given by the director.

(b) The hearings held under this section shall be conducted by the town council at a regular or special meeting of the town council or by at least one member of the town council designated by the town council to conduct such hearings on behalf of the town council at any other time and place authorized by the town council.

(c) A verbatim record of the proceedings of such hearing shall be taken and filed with the town council. Depositions may be taken and read as in actions at law.

(d) The town council or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or testify or to produce documents shall be acted upon by the town whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursements for mileage as in civil actions.

**Sec. 14-26. - Appeals.**

(a) Final decisions of the director under this article shall be in writing and be subject to review

Comment [d24]: Town Council per Town Attorney.

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by the town manager. Any appeal shall be filed with the town manager within 30 days from the date of any written decision by the department of plan review which adversely affects the rights, duties, or privileges of the persons engaging in or proposing to engage in land disturbing activities.

(b) All appeals must be written and must contain sufficient information to acquaint the town manager with the facts involved.

(c) A final decision of the town manager may be appealed to the town council, provided that a written appeal is filed with the town manager within 30 days after the date of his decision.

(d) A final decision of the town is subject to review by the circuit court of Loudoun County, provided that the appeal is filed within 30 days of the town council's action.

PRESENTED March 12, 2013

RESOLUTION NO. \_\_\_\_\_

ADOPTED \_\_\_\_\_

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.

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

1. Amendments to Town Code stormwater management provisions are hereby initiated to

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

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 \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Kristen C. Umstattd, Mayor  
Town of Leesburg

ATTEST:

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