



DEVELOPMENT ADVISORY – 21

April 24, 2014

Virginia Stormwater Management Program Implementation

As mandated by the Virginia Stormwater Management Act and the associated Virginia Stormwater Management Program (VSMP) Regulations, the City of Chesapeake is in the process of implementing Virginia's revised stormwater management requirements. The City is required to revise the City's Stormwater Management Ordinance and other related development ordinances, and update Chapter 5 of the Public Facilities Manual to comply with state regulatory changes adopted in 2011. These revisions are required to be adopted by June 15, 2014 along with other programmatic changes, and become effective on July 1, 2014. The proposed Stormwater Management Ordinance and revised Public Facilities Manual are attached for review and comment. Please note that these program components are currently undergoing review by the Virginia Department of Environmental Quality (DEQ) and may require further revision.

For more background and information about the upcoming regulatory changes in Virginia please view the DEQ web page:

<http://www.deq.virginia.gov/Programs/Water/StormwaterManagement/VSMPPermits/LocalVSMPProgramDevelopment.aspx>

Link to the Virginia Stormwater Management Program Regulations:

<http://lis.virginia.gov/000/reg/TOC09025.HTM#C0870>

Until July 1, 2014 stormwater design requirements are required to comply with the City's current Public Facilities Manual

<http://www.cityofchesapeake.net/Government/City-Departments/Departments/Department-of-Development-and-Permits/construction-engineering/pfm/engineer-pfm-master.htm>

And the VSMP Part II C Technical Criteria.

<http://lis.virginia.gov/cgi-bin/leqp604.exe?000+reg+9VAC25-870-93>

Once Chesapeake's revised Stormwater Management Program is approved by the DEQ, the City will become a VSMP Authority and on July 1, 2014, will be responsible for implementing and enforcing Virginia's revised post-construction water quality and water quantity technical criteria (Part II B Technical Criteria), as well as administration and enforcement of the 2014 (state) Construction General Permit which regulates discharges from certain regulated land disturbing activities during construction. The 2014 Construction General Permit becomes effective on July 1, 2014. Please see the attached flow chart to help determine whether your project requires registration for coverage under the state Construction General Permit or whether your project receives automatic coverage. Beginning July 1, 2014 owners and operators will work with the City Department of Development and Permits to register for state permit coverage rather than a separate process with DEQ. City Land Disturbing permits will not be issued until coverage under the 2014 state Construction General Permit is obtained, if required. The City will conduct all associated inspections, along with oversight from the DEQ. The DEQ will continue to be the Construction General Permit issuing authority through June 30, 2014.

Link to the 2014 Construction General Permit (not yet final and subject to further revisions):

<http://www.deq.virginia.gov/Portals/0/DEQ/Water/Regulations/9VAC25-880-VPDESConstructionSWGPRRegulation.pdf>

You can find information about DEQ's new post-construction design criteria, known as the Runoff Reduction Method here:

<http://www.deq.virginia.gov/Programs/Water/Laws.Regulations.Guidance/Guidance/StormwaterManagementGuidance.aspx>

For revised post-construction BMP design specifications please refer to the BMP Clearinghouse:

<http://vwrrc.vt.edu/SWC/index.html>

Grandfathering

The VSMP Regulations contain specific language pertaining to grandfathering of certain projects to the current water quality and water quantity (Part II C Technical Criteria).

<http://lis.virginia.gov/cgi-bin/legp604.exe?000+reg+9VAC25-870-48>

The City has developed the attached flow chart to assist owners and operators with determining factors applicable to a determination of grandfathered status, however, this flow chart is for informational purposes only and is not binding or conclusive as to an official determination of the status of any specific project. You are encouraged to contact the Department of Development and Permits, the DEQ, or your attorney with specific questions. The Department of Development and Permits can issue a determination as to whether or not a plan or plat is currently valid, but the Department of Development and Permits cannot issue determinations as to whether or not a specific project will be grandfathered as that will depend on the language of the ordinance when it is adopted and the facts and circumstances as of the time of registration and/or expiration of Construction General Permit Coverage for a project.

Unpermitted Projects Not Eligible for Grandfathering

Projects which have not yet received final City plan approval and which have not yet registered for Construction General Permit coverage from DEQ may be eligible to register under the 2009 permit and continue to utilize the VSMP Part II C Technical Criteria.

DEQ has recently issued guidance for obtaining coverage under the 2009 Construction General Permit which can be found here:

<http://townhall.virginia.gov/L/ViewGDoc.cfm?gdid=5514>

Please note that if coverage under the 2009 Construction General Permit is obtained between now and June 30, 2014 you will also need to register for coverage under the 2014 Construction General Permit prior to June 30, 2014 in order to maintain permit coverage and continue to utilize the VSMP Part II C Technical Criteria.

Obtaining coverage under the 2009 Construction General Permit does not imply City plan approval or permission to begin land disturbing activities. Owners and/or operators must have approved plans and obtain a City Land Disturbing Permit, as well as any other required local or state permits, prior to commencement of regulated land disturbing activities.

Additional information specific to changes in the plan submittal and review process, fees, and permitting will be provided in the coming weeks as we approach the July 1, 2014 implementation date.

Public Facilities Manual Update

The City has also revised Chapter 1 and 5 of the Public Facilities Manual (PFM) to implement the mandated Stormwater Management Regulations. Below are links to these revised chapters.

Chapter 1:

http://www.cityofchesapeake.net/Assets/documents/departments/development_permits/development-advisories/Proposed-PFM-Vol-I-Chapter-1-Rev-01-2014.pdf

Chapter 5:

http://www.cityofchesapeake.net/Assets/documents/departments/development_permits/development-advisories/Proposed-PFM-Vol-I-Chapter-5-Rev-01-2014.pdf

Chesapeake DRAFT Stormwater Ordinance:

http://www.cityofchesapeake.net/Assets/documents/departments/development_permits/development-advisories/Chesapeake-Draft-Stormwater-Ordinance.pdf

For further information or to submit comments, please contact:

Arnold Lapid, Development and Permits - alapid@cityofchesapeake.net or 382-6126

If you would like your comments considered prior to the scheduled City Council Work Session on 5/20/14, please submit them no later than 5/15/14.