ORDINANCE AMENDING AND RE-ENACTING

CERTAIN SECTIONS OF

TITLE 10, CHAPTER 7 "STORMWATER MANAGEMENT"

OF THE

CODE OF ORDINANCES

CITY OF HARRISONBURG, VIRGINIA

Be it ordained by the Council of the City of Harrisonburg, Virginia:

That Sections of Title 10, Chapter 7 "Stormwater Management" be amended as follows:

Sec. 10-7-2. DEFINITIONS. (9VAC25-870-10)

[ADD the following definition for "City":]

"City" means the local government of the City of Harrisonburg

REVISE the definition for "Stormwater management plan" to now read:

"Stormwater management plan" means a document(s) containing material describing methods for complying with the requirements of Section ~~1-6~~10-7-6 of this Ordinance.

Sec. 10-7-4. STORMWATER MANAGEMENT PROGRAM ESTABLISHED; SUBMISSION AND APPROVAL OF PLANS; PROHIBITIONS.

[REVISE Section 10-7-4 to now read:]

(a) Pursuant to § 62.1-44.15:27 of the Code of Virginia, the Ceity hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board for the purposes set out in Section ~~1-1~~10-7-1 of this Ordinance. The city hereby designates the City Engineer as the Administrator of the Virginia stormwater management program.

(b) No VSMP authority permit shall be issued by the Administrator, until the following items have been submitted to and approved by the Administrator or his/her authorized agent as prescribed herein:

(1) A permit application that includes a general permit registration statement if such statement is required;

(2) An erosion and sediment control plan or Agreement in Lieu of an Erosion Control Plan approved in accordance with the city Erosion and Sediment Control Ordinance; ~~and~~

(3) A Stormwater Management Plan that meets the requirements of Section ~~1-6~~10-7-6 of this Ordinance or an Agreement in Lieu of a Stormwater Management Plan for applicable projects.

(4) A Pollution Prevention Plan that meets the requirements of Section ~~1-6~~10-7-7 of this Ordinance.

(c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained where it is required.

(d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section ~~1-15~~10-7-15, are received, all other city permitting prerequisites are met and a reasonable performance bond required pursuant to Section ~~1-16~~10-7-16 of this Ordinance has been submitted.

(e) No VSMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.

(f) No grading, building or other local permit shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

(g) In general, the requirements of (a) through (f) above shall be waived for individual lot single family home construction, within or outside of a common plan of development, disturbing less than five acres of land. Applicants for such projects are not required to submit a general permit registration statement, nor pay any state fee, but shall execute with the city an "Agreement in Lieu of a Stormwater Management Plan"~~,~~ and ~~shall~~ pay the applicable City fees prior to receiving a building permit. The Agreement in Lieu of a Stormwater Management Plan directs the applicant to comply with the terms of the general permit, and requires the preparation of a SWPPP (which can be based upon a template to be provided by the administrator). Applications for a building permit on such projects on lots that contain an established stormwater best management practice shall include a detailed grading plan sufficient to show continued function of such practice(s) per its (their) original design.

Sec. 10-7-6. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN.

[REVISE Section 10-7-6 to now read:]

(a) The Stormwater Management Plan, required in Section ~~1-4~~10-7-4 of this Ordinance, must apply the stormwater management technical criteria set forth in Section ~~1-9~~10-7-9 of this Ordinance to the entire land-disturbing activity, consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to ~~sub~~surface runoff. (Individual lots in new residential, commercial or industrial subdivisions shall be not considered separate land disturbing activities, and shall be governed by the provisions of the overall development's stormwater management plan regardless of future ownership.) The Stormwater Management Plan shall include the following information:

(1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and postdevelopment drainage areas;

(2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;

(3) A narrative that includes a description of current site conditions and final site conditions;

(4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;

(5) Information on the proposed stormwater management facilities, including:

(i) The type of facilities;
(ii) Location, including geographic coordinates;
(iii) Acres treated; and
(iv) The surface waters or karst features, if present, into which the facility will discharge.

(6) Hydrologic and hydraulic computations, including runoff characteristics;

(7) Documentation and calculations verifying compliance with the water quality and quantity requirements of Section ~~1-9~~10-7-9 of this Ordinance and the City Design & Construction Standards Manual;

(8) A map or maps of the site that depicts the topography of the site and includes:

(i) All contributing drainage areas;
(ii) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;

(iii) Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
(iv) Current land use including existing structures, roads, and locations of known utilities and easements;
(v) Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
(vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
(vii) Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
(viii) 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.

(b) If an operator intends to meet the water quality and/or quantity requirements set forth in Section ~~1-9~~10-7-9 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by § 62.1-44.15:35 of the Code of Virginia.

(c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

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

Sec. 10-7-8. REVIEW OF STORMWATER MANAGEMENT PLAN.

[REVISE subparagraph (a)(1) to now read:]

(1) The Administrator shall determine the completeness of a plan in accordance with Section ~~1-6~~10-7-6 of this Ordinance, 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.

[REVISE paragraph (c) to now read:]

(c) The Administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The Administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to Section ~~1-10 (b).~~10-7-10.

Sec. 10-7-9. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

[REVISE Section 10-7-9 to now read:]

(a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the city hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-62 [applicability]; 9VAC25-870-63 [water quality design criteria requirements]; 9VAC25-870-65 [water quality compliance]; 9VAC25-870-66 [water quantity]; 9VAC25-870-69 [offsite compliance options]; 9VAC25-870-72 [design storms and hydrologic methods]; 9VAC25-870-74 [stormwater harvesting]; 9VAC25-870-76 [linear development project]; and, 9VAC25-870-85 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this Ordinance, except as expressly set forth in Subsection (b) of this Section. In addition, the City, as VSMP authority, may elect to implement the provisions for comprehensive stormwater management plans in 9VAC25-870-92.

(b) Grandfathering.

(1) Any land-disturbing activity shall be considered grandfathered by the administrator and shall be subject to the Part II C (9VAC25-870-93 et seq.) technical criteria of this chapter provided:

(i) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by the administrator to be equivalent thereto (a) was approved by the City prior to July 1, 2012, (b) provided a layout as defined in 9VAC25-870-10, (c) will comply with the Part II C technical criteria of this chapter, and (d) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorus leaving each point of discharge, and such that there is no increase in the volume or rate of runoff;

(ii) A state permit has not been issued prior to July 1, 2014; and

(iii) Land disturbance did not commence prior to July 1, 2014.

(iv) Verification of such compliance must have occurred at the time of City approval of such plat or plan, and have been based upon a plat or plan that (a) identified specific stormwater practices needed to ensure compliance and (b) included calculations confirming such practices will provide adequate pollutant removal to ensure compliance.

(2) Locality, state, and federal projects shall be considered grandfathered by the administrator and shall be subject to the Part II C technical criteria of this chapter provided:

(i) There has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;

(ii) A state permit has not been issued prior to July 1, 2014; and

(iii) Land disturbance did not commence prior to July 1, 2014.

(3) Land disturbing activities grandfathered under subsections (1) and (2) of this section shall remain subject to the Part II C technical criteria of this chapter for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the Virginia State Water Control Board.

(4) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical criteria of Part II C.

(5) Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

~~(b) Until June 30, 2019, any land-disturbing activity for which a currently valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the locality as being equivalent thereto, was approved by the city prior to July 1, 2012, and for which no coverage under the general permit has been issued nor land disturbance begun prior to July 1, 2014, shall be considered grandfathered by the Administrator and shall not be subject to the technical criteria of Part II B of the Regulations, but shall be subject to the technical criteria of Part II C of the Regulations [9VAC25-870-93 through 9VAC25-870-99] for those areas that were included in the approval, provided that the Administrator finds that such proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the locality as being equivalent thereto (i) provides for a layout and (ii) the resulting land-disturbing activity will be compliant with the requirements of Part II C. Verification of such compliance must have occurred at the time of City approval of such plat or plan, and have been based upon a plat or plan that (i) identified specific stormwater practices needed to ensure compliance and (ii) included calculations confirming such practices will provide adequate pollutant removal to ensure compliance. In the event that the city-approved document is subsequently modified or amended in a~~

~~manner such that there is no increase over the previously approved plat or plan in the amount of phosphorus leaving each point of discharge of the land-disturbing activity through stormwater runoff, and such that there is no increase over the previously approved plat or plan in the volume or rate of runoff, the grandfathering shall continue as before.~~

~~(1) Until June 30, 2019, for local, state, and federal projects for which there has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the Administrator has approved a stormwater management plan prior to July 1, 2012, such projects shall be considered grandfathered by the city and shall not be subject to the technical requirements of Part II B of the Regulations, but shall be subject to the technical requirements of Part II C of the Regulations for those areas that were included in the approval.~~

~~(2) For land-disturbing activities grandfathered under this Subsection, construction must be completed by June 30, 2019, or portions of the project not under construction shall become subject to the technical requirements of Subsection (a) above.~~

~~(c) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements Part IIC of the Regulations, as adopted by the city in Subsection (b) of this Section.~~

~~(4)~~(2) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.

(i)Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.

(ii)Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

~~(e) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.~~

Sec. 10-7-11. MONITORING AND INSPECTIONS.

[REVISE paragraph (c) to now read:]

(c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument approved by the City, the Administrator 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.

[REVISE paragraph (e) to now read:]

(e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator or any duly authorized agent of the Administrator pursuant to the Locality's adopted and State 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 ~~1-10~~10-7-10. Additional owner-performed inspections may be required in accordance with the BMP Maintenance Agreement.

Sec. 10-7-14. ENFORCEMENT

[REVISE subparagraph (d)(1) to now read:]

(1) Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
- (i) No state permit registration;
- (ii) No SWPPP;
- (iii) Incomplete SWPPP;
- (iv) SWPPP 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; and
- (x) Incomplete, improper, or missed inspections~~; and~~.
- ~~(xi) Discharges not in compliance with the requirements of Section 9VAC 25-880-70 of the general permit.~~

The remainder of Title 10, Chapter 7 is reaffirmed and reenacted in its entirety, except as hereby modified.

This ordinance shall be effective from the 10 day of March, 2015.
Adopted and approved this 10 day of March, 2015.

MAYOR

ATTESTE:

CLERK OF THE COUNCIL