



AGENDA
BOARD OF SUPERVISORS
WEDNESDAY, APRIL 22, 2026
7:00 PM
BOARD MEETING ROOM
107 NORTH KENT STREET, WINCHESTER, VIRGINIA 22601

1. **Call to Order**
2. **Invocation**
3. **Pledge of Allegiance**
4. **Adoption of Agenda**
5. **Citizen Comments – For agenda items that are not the subject of a Public Hearing**
6. **Consent Agenda – *Roll Call Vote***
 - 6.A. Approval of Regular Meeting Minutes of April 8, 2026
[BOS04-22-26Minutes260408.pdf](#)
 - 6.B. Acceptance of Public Works Committee Report of March 31, 2026
[BOS04-22-26PublicWorksCommReport2026March31.pdf](#)
 - 6.C. The Director of Public Works requests a \$50,000 General Fund supplemental appropriation representing funds for a new pet recreation area at the Animal Shelter. Funds are available in the Animal Shelter Reserve. This item was approved by the Public Works Committee. No additional local funds required.
[BOS04-22-26PetRecArea.pdf](#)
 - 6.D. Approval of Revisions to County Code – Chapter 143 – Stormwater/Erosion and Sediment Control Ordinance as Requested by the Public Works Committee
[BOS04-22-26Chapter143OrdinanceUpdate.pdf](#)
 - 6.E. Request from the Commissioner of the Revenue for Refund and Supplemental Appropriation: LEVEL 1 PROPERTY SOLUTIONS LLC- \$12,084.00
[BOS04-22-26RequestForRefund.pdf](#)

Consent Agenda, *continued*

- 6.F. Resolution for Changes in the Secondary System of State Highways:
One Logistics Park

[BOS04-22-26RoadResOneLogisticsPark.pdf](#)

- 6.G. Resolution for Changes in the Secondary System of State Highways:
Raven Oaks

[BOS04-22-26RoadResRavenOaks.pdf](#)

- 6.H. A Resolution of the Frederick County Board Of Supervisors Approving of the County's Participation in the Proposed Combined Settlement Agreement Resolving Opioid-Related Claims Against Associated Pharmacies, Inc. (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc; Morris And Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (Including its Subsidiaries Supervalu and Advantage Logistics) (Collectively Referred to as the Six Remnant Defendants), and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the Settlement

[BOS04-22-26OpioidRemnantDefendantSettlementAuth.pdf](#)

- 6.I. Resolution Ratifying the Declaration of an Emergency Ban on Open-air Burning

[BOS04-22-26BurnBanRatification.pdf](#)

7. **Board of Supervisors Comments**

8. **County Officials** - None

9. **Appointments to Boards, Committees, and Commissions** - None

10. **Committee Business** - None

11. **Public Hearings (Non Planning Issues)**

11.A.

Proposed Amendment to the Lease Agreement Between the County of Frederick, Virginia and H&R Block Eastern Enterprises, Inc. The Board of Supervisors will Conduct a Public Hearing on an Amendment to the Existing Lease Agreement Between the County of Frederick, Virginia and H&R Block Eastern Enterprises, Inc., for Space Located at 223 Sunnyside Plaza Drive and More Particularly Described as Certain Real Property Containing Approximately 1,440 Square Feet Said Property Being Part of that Parcel Identified as Parcel Number 53-A-52-E in the Stonewall Magisterial District. The Proposed Amendment Would Extend the Existing Lease for an Additional 2 Years Commencing on May 1, 2026, and Expiring April 30, 2028.

[BOS04-22-26HRBlockLeaseAmendment_Redacted.pdf](#)

11.B.

Granting of a Utility Easement for Lot 10 of Echota Trail - That for Good and Valuable Consideration, the Receipt Whereof is Hereby Acknowledged, Frederick County (Grantor) Grants Unto Grantee, Its Successors and Assigns, the Right, Privilege, and Easement to Construct, Extend for Future Requirements of Grantor or Others and Onto Other Properties, Operate, and Maintain Overhead and Underground Electric and Other Utility Service Lines, Communication Infrastructure, Facilities, Conduits and Other Cables with Accessories and Appurtenances for Transmitting and Distributing Electric Power, Other Utility Services, Broadband and Other Communication Services, and Data Delivery and Receipt Services, Over, Under, Through, Upon, Above and Across the Lands of Grantor Containing Approximately 149 Acres, More or Less, Identified by Frederick County, Virginia, Tax Map No.49A02 2 F, Within the Back Creek Magisterial District.

[BOS04-22-26ShawneelandUtilityServiceAgreement.pdf](#)

11.C.

Proposed Ordinance – Salaries of the Board of Supervisors (FY 2026-2027) – Pursuant to Section 15.2-1414.3 of the Code of Virginia, 1950, as Amended, the Board of Supervisors Will Hold a Public Hearing to Fix the Annual Salaries of the Board of Supervisors as Follows: Chairman, \$10,800; Vice Chairman, \$10,200; and Each Other Member of the Board of Supervisors at \$9,000.

[BOS04-22-26BoardSalaries.pdf](#)

Public Hearings (Non Planning Issues), continued

11.D.

An Ordinance to Amend the Frederick County Code, Chapter 155 Taxation, Article XIV Transient Occupancy Tax, Section 155-51 Tax Imposed, to Increase the Transient Occupancy Tax from 3.5% to 6%, Effective July 1, 2026.

[BOS04-22-26LodgingTaxUpdate.pdf](#)

11.E.

An Ordinance to Amend the Frederick County Code, Chapter 155 Taxation, Article XIX Meals Tax, Section 155-118 Tax Imposed, to Increase the Meals Tax from 4% to 6%, Effective July 1, 2026.

[BOS04-22-26MealsTaxUpdate.pdf](#)

12. **Planning Commission Business - Public Hearings** - None

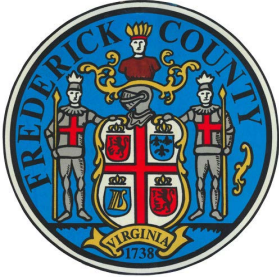
13. **Planning Commission Business - Other Planning Business** - None

14. **Board Liaison Reports**

15. **Citizen Comments**

16. **Board of Supervisors Comments**

17. **Adjourn**



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title: Approval of Regular Meeting Minutes of April 8, 2026

Attachments:

[BOS04-22-26Minutes260408.pdf](#)

MINUTES
REGULAR MEETING
FREDERICK COUNTY BOARD OF SUPERVISORS
WEDNESDAY, APRIL 8, 2026
7:00 P.M.
BOARD ROOM, COUNTY ADMINISTRATION BUILDING
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

ATTENDEES

Board of Supervisors: John F. Jewell, Chairman; Robert W. Wells, Vice Chairman; Robert T. Liero; Jason C. Aikens; Albert L. Orndorff; Michael D. Guevremont; and Gary R. Oates were present.

Staff present: Jay E. Tibbs, Deputy County Administrator; Andrew R. Fox, County Attorney; Karen Vacchio, Public Information Officer; Wyatt Pearson, Planning Director; John Bishop, Assistant Director of Planning; Mark Cheran, Zoning & Subdivision Administrator; Eric Bittner, Planner II; Sharon Kibler, Finance Director; Missi Neal, Risk Manager/Budget Analyst; Patrick Fly, Director of Information Technologies; and Ann W. Phillips, Deputy Clerk to the Board of Supervisors.

CALL TO ORDER

Chairman Jewell called the meeting to order at 7:00 p.m.

INVOCATION

Pastor Sam Rogers of Hope Valley House Churches delivered the invocation.

PLEDGE OF ALLEGIANCE

Vice Chairman Wells led the Pledge of Allegiance.

ADOPTION OF AGENDA - APPROVED

Vice Chairman Wells moved for the adoption of the draft agenda. Supervisor Liero seconded the motion, which carried on a voice vote.

CITIZEN COMMENTS

Blaine Dunn, Red Bud District, commented on the budget and encouraged the Board to fund the eight new firefighter positions that had been cut from the budget.

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ADOPTION OF CONSENT AGENDA – APPROVED

Vice Chairman Wells moved for the adoption of the consent agenda. Supervisor Guevremont seconded the motion, which carried on the following recorded vote:

| | | | |
|---------------------------------|------------|------------------------|------------|
| Michael D. Guevremont | Aye | Robert T. Liero | Aye |
| Albert L. Orndorff | Aye | Robert W. Wells | Aye |
| Gary R. Oates | Aye | Jason C. Aikens | Aye |
| John F. Jewell, Chairman | Aye | | |

- Approval of Regular Meeting Minutes of March 25, 2026 - CONSENT AGENDA APPROVAL

- Acceptance of Transportation Committee Report of March 23, 2026 - CONSENT AGENDA APPROVAL,
Appendix 1

- Request from the Commissioner of the Revenue for Refund and Supplemental Appropriation:
Schrock Inc./Valley Travel- \$70,228.19 - CONSENT AGENDA APPROVAL

- Appointment of John Jewell to serve as an Alternate on the Regional Jail Authority for a term ending
December 31, 2026. CONSENT AGENDA APPROVAL

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BOARD OF SUPERVISORS COMMENTS

Supervisor Liero made the following statement: “I, Supervisor Robert Thomas Liero of the Shawnee Magisterial District of the Frederick County, Virginia, Board of Supervisors, would like to disclose for the record, relative and pursuant to the State and Local Government Conflict of Interests Act, and specifically pursuant to the Code of Virginia 2.2-3112, B.3., and Code of Virginia 2.2-3115, H., that my wife, Deanna L. Liero, is employed as a teacher by the Frederick County Public Schools and therefore is a member of a group who is or may be affected by Board of Supervisors votes on educational related issues, and that I am able to participate in the transaction fairly, objectively, and in the public interest.”

COUNTY OFFICIALS - None

Regular Meeting Minutes
Frederick County Board of Supervisors
April 8, 2026

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APPOINTMENTS TO BOARDS, COMMITTEES, AND COMMISSIONS

DEVELOPMENT IMPACT MODEL OVERSIGHT COMMITTEE APPOINTMENTS – APPROVED

Vice Chairman Wells moved to appoint the following to one-year terms ending April 30, 2027, on the Development Impact Model Oversight Committee:

Michael Bollhoefer - County Administration Representative
John Jewell - Board of Supervisors Representative
Jason Aikens - Board of Supervisors Representative, EDA Representative
Tim Stowe - Planning Commission Representative
Elizabeth Kozel - Planning Commission Representative
Stephen Pettler - Top of Virginia Building Assoc. Rep.
David Frank - Top of Virginia Building Assoc. Rep.
Miles Adkins - School Board Representative
Dianna Klein - School Board Representative-Alternate

The motion, seconded by Supervisor Guevremont, carried on a voice vote.

COMMITTEE BUSINESS – None

PUBLIC HEARINGS (NON PLANNING ISSUES)

PURSUANT TO SECTION 24.2-701.2 OF THE CODE OF VIRGINIA, A VOTER SATELLITE OFFICE SHALL BE ESTABLISHED AT 261-263 SUNNYSIDE PLAZA DRIVE, WINCHESTER, VA 22603 - APPROVED

County Attorney Andrew Fox explained that because of planned renovations to the central precinct early absentee voting location, the Office of Elections/General Registrar will be using the County-owned space at Sunnyside Plaza to conduct early absentee voting for the August primary elections, with early voting commencing on June 18, 2026. He said State law requires the local governing body to establish by ordinance any absentee voting location no later than sixty days prior to the election date.

Chairman Jewell opened the public comment period.

There were no speakers.

Chairman Jewell closed the public comment period.

Supervisor Oates moved to adopt the Ordinance to establish a Voter Satellite Office at 261-263 Sunnyside Plaza Drive, Winchester, VA 22603. Vice Chairman Wells seconded the motion, which carried on the following recorded vote:

| | | | |
|---------------------------------|------------|------------------------|------------|
| Michael D. Guevremont | Aye | Robert T. Liero | Aye |
| Albert L. Orndorff | Aye | Robert W. Wells | Aye |
| Gary R. Oates | Aye | Jason C. Aikens | Aye |
| John F. Jewell, Chairman | Aye | | |

ORDINANCE

April 8, 2026

Pursuant to section 24.2-701.2 of the Code of Virginia, a voter satellite office shall be established at 261-263 Sunnyside Plaza Drive, Winchester, VA 22603, no later than June 18, 2026, for the purposes of absentee voting in person and as the Central Absentee Voting Precinct for the August 2026 primary election.

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ORDINANCE TO AMEND THE FREDERICK COUNTY CODE, CHAPTER 158 VEHICLES AND TRAFFIC, ARTICLE III COUNTY VEHICLE LICENSES, §158-9 FEES. THIS ORDINANCE UPDATES THE COUNTY CODE TO REFLECT THE ANNUAL VEHICLE LICENSE (DECAL) FEE OF \$30 TO BE ENACTED AS PART OF THE FISCAL YEAR 2027 COUNTY BUDGET – APPROVED

County Attorney Andrew Fox said this ordinance updates the County Code to reflect the annual vehicle license (decal) fee of \$30 to be enacted as part of the Fiscal Year 2027 County budget.

Chairman Jewell opened the public comment period.

There were no speakers.

Chairman Jewell closed the public comment period.

Supervisor Aikens moved to adopt the Ordinance to Amend the Frederick County Code, Chapter 158 Vehicles and Traffic, Article III County Vehicle Licenses, §158-9 Fees to reflect the Annual Vehicle License (Decal) Fee of \$30 to be enacted as part of the Fiscal Year 2027 County Budget. Supervisor Guevremont seconded the motion, which carried on the following recorded vote:

| | | | |
|---------------------------------|------------|------------------------|------------|
| Michael D. Guevremont | Aye | Robert T. Liero | Aye |
| Albert L. Orndorff | Aye | Robert W. Wells | Aye |
| Gary R. Oates | Aye | Jason C. Aikens | Aye |
| John F. Jewell, Chairman | Aye | | |

ORDINANCE

April 8, 2026

The Board of Supervisors of Frederick County, Virginia, hereby ordains that Frederick County Code, Chapter 158 (Vehicles and Traffic), Article III County Vehicle Licenses, Section 158-9 (Fees) be amended as follows (deletions shown in ~~bold strikethrough~~ and additions shown in **bold underline**):

CHAPTER 158 VEHICLES AND TRAFFIC

Article III County Vehicle Licenses

§ 158-9 Fees

There is hereby levied and assessed an annual license tax, fee or charge on all such motor vehicles required to be licensed in the County in the amount of ~~\$25~~ **\$30**, except motorcycles, for which the license tax, fee or charge is \$10, and except for "antique motor vehicles," as defined and licensed in Title 46.2 of the Code of Virginia, 1950, as amended, and as provided for herein, and vehicles not registered for use on highways, for which there is no annual license tax, fee or charge, and further except that such license tax, fee or charge shall in no event be greater than the amount of the license tax, fee or charge by the commonwealth on such motor vehicles.

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PLANNING COMMISSION BUSINESS – PUBLIC HEARINGS

REZONING #02-26 OF PLASTERS HVAC - 161 COMMONWEALTH COURT (WINCHESTER REAL ESTATE, LLC) – APPROVED

Planner Eric Bittner reviewed the request to rezone approximately 1.21 acres from the B2 (General Business) Zoning District with proffers to the B3 (Industrial Transition) Zoning District with proffers. He said the proposed proffers include use restrictions barring gas stations, movie theaters, and parks, as well as a cash proffer for any new building square footage for impacts to County Fire and Rescue.

Chairman Jewell opened the public comment period.

Leslie Spencer, Gainesboro District, spoke in favor of the proposed additional landscaping included for the project.

Chairman Jewell closed the public comment period.

Supervisor Orndorff moved to approve REZONING #02-26 OF PLASTERS HVAC - 161 COMMONWEALTH COURT (WINCHESTER REAL ESTATE, LLC). Supervisor Guevremont seconded the motion, which carried on a recorded vote as follows:

| | | | |
|--------------------------|-----|-----------------|-----|
| Michael D. Guevremont | Aye | Robert T. Liero | Aye |
| Albert L. Orndorff | Aye | Robert W. Wells | Aye |
| Gary R. Oates | Aye | Jason C. Aikens | Aye |
| John F. Jewell, Chairman | Aye | | |

ORDINANCE AMENDING THE ZONING DISTRICT MAP
REZONING #02-26 FOR PLASTERS HVAC
(WINCHESTER REAL ESTATE, LLC)

WHEREAS, REZONING #02-26 of Plasters HVAC (Winchester Real Estate, LLC) was submitted to rezone 1.21+/- acres from B2 (General Business) Zoning District with proffers to the B3 (Industrial Transition) Zoning District with proffers to develop an HVAC repair facility. The property is located at 161 Commonwealth Court, Winchester, and is identified by Property Identification Number 75-A-91E in the Back Creek Magisterial District; and

WHEREAS, the Frederick County Planning Commission held a public hearing on this rezoning on March 18, 2026, and recommended approval; and

WHEREAS, the Frederick County Board of Supervisors held a public hearing on April 8, 2026; and

WHEREAS, the Frederick County Board of Supervisors finds the approval of this rezoning to be in the best interest of public health, safety, and welfare, and in conformance with the Comprehensive Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that Chapter 165 of the Frederick County Code, Zoning, the Zoning District Map is amended in accordance with Rezoning #02-26 of Plasters HVAC (Winchester Real Estate, LLC) submitted to rezone 1.21+/- acres from B2 (General Business) Zoning District with proffers to the B3 (Industrial Transition) Zoning District with proffers dated January 16, 2026. The conditions voluntarily proffered in writing by the Applicant and the Property Owner are attached.

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REVOCATION OF CONDITIONAL USE PERMIT #03-24 FOR (A CUT ABOVE) – APPROVED

Mark Cheran, Zoning Administrator, reviewed the timeline of violations of approved CUP #03-24. He said the Planning Commission held a public hearing at their regular meeting on March 18, 2026, regarding the CUP, and recommended that the CUP #03-24 be revoked.

The Board and staff discussed the timeline and the applicant's failure to have a minor site plan approved before commencing business under the CUP.

Stephen Pettler of Harrison and Johnson, representing the business holder of the CUP, said that the business is working through the process to address the violations and should be given additional time to complete the necessary tasks and have the minor site plan approved.

The Board and Mr. Pettler discussed the request for additional time and the Board's role in revoking the CUP.

Chairman Jewell opened the public comment period.

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Rocky Keplinger, Back Creek District, spoke in favor of the revocation because of the applicant's violations, which have affected his adjacent property.

Larry Ludwig, Back Creek District, spoke in favor of the revocation because of the applicant's violations, which have affected his adjacent property.

Chairman Jewell closed the public comment period.

Supervisor Orndorff moved to revoke CONDITIONAL USE PERMIT #03-24 FOR (A CUT ABOVE). Supervisor Oates seconded the motion.

The Board discussed whether there were any intervening options other than revocation and the relative ease of acquiring the minor site plan approval.

The motion carried on a recorded vote as follows:

| | | | |
|---------------------------------|------------|------------------------|------------|
| Michael D. Guevremont | No | Robert T. Liero | Aye |
| Albert L. Orndorff | Aye | Robert W. Wells | Aye |
| Gary R. Oates | Aye | Jason C. Aikens | No |
| John F. Jewell, Chairman | Aye | | |

ORDINANCE REVOKING CONDITIONAL USE PERMIT #03-24
172 FIREHOUSE LANE LLC
(BARBARA SINGHAS)

WHEREAS, REVOCATION OF CONDITIONAL USE PERMIT #03-24 for 172 Fire House LLC and Barbara Singhas (A Cut Above) was considered due to the violation of condition #4 from Conditional Use Permit #03-24, which pertains to receiving approval of a minor site plan prior to establishing the use. The property is located at 171 Old Firehouse Lane, Winchester, and is identified with Property Identification Number 52-A-287B in the Back Creek Magisterial District; and

WHEREAS, the Frederick County Planning Commission held a public hearing on this conditional use permit on March 18, 2026, and recommended revocation; and

WHEREAS, the Frederick County Board of Supervisors held a public hearing on April 8, 2026; and

WHEREAS, the Frederick County Board of Supervisors finds the revocation of this conditional use permit to be in the best interest of the public health, safety, and welfare, and in conformance with the Comprehensive Plan;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that in accordance with Chapter 165 of the Frederick County Code, Zoning, Conditional Use Permit #03-24 for 172 Firehouse Lane LLC and Barbara Singhas (A Cut Above) for a landscape contracting business on the parcel identified with Property Identification Number 52-A-28 7B is revoked.

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PLANNING COMMISSION BUSINESS - OTHER PLANNING BUSINESS - None

*Regular Meeting Minutes
Frederick County Board of Supervisors
April 8, 2026*

ADOPTION OF FISCAL YEAR 2026-27 BUDGET AND APPROPRIATIONS, AND SETTING OF 2026 TAX RATES - APPROVED

Deputy County Administrator Jay Tibbs reviewed the two resolution options with version 'A', including a real estate tax rate of \$ 0.05 per \$100 of assessed value, and version 'B', including a real estate tax rate of \$ 0.04 per \$100 of assessed value.

Vice Chairman Wells moved for the adoption of the FY 2026-2027 budget resolution version 'A'. Supervisor Guevremont seconded the motion, which carried on a recorded vote as follows:

| | | | |
|---------------------------------|------------|------------------------|------------|
| Michael D. Guevremont | Aye | Robert T. Liero | Aye |
| Albert L. Orndorff | Aye | Robert W. Wells | Aye |
| Gary R. Oates | No | Jason C. Aikens | Aye |
| John F. Jewell, Chairman | Aye | | |

FY 2026-2027 BUDGET RESOLUTION

WHEREAS a notice of public hearing and budget synopsis has been published and a public hearing held on March 25, 2026, in accordance with Title 15.2, Chapter 25, Section 15.2-2506, of the Code of Virginia, 1950 as amended.

THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Frederick, Virginia, that the budget for the 2026-2027 Fiscal Year as advertised in The Winchester Star on March 17, 2026, be hereby approved in the amount of \$694,743,278

BE IT FURTHER RESOLVED that the County of Frederick budget for the 2026-2027 fiscal year be adopted and the funds appropriated as follows:

| | |
|------------------------------------|-------------|
| General Operating Fund | 287,296,036 |
| Regional Jail Fund | 31,593,447 |
| Landfill Fund | 18,684,562 |
| Division of Court Services Fund | 624,417 |
| Shawneeland Sanitary District Fund | 1,039,882 |
| Airport Authority Operating Fund | 3,024,098 |
| Airport Authority Capital Fund | 8,260,000 |
| EMS Revenue Recovery Fund | 3,299,575 |

| | |
|--|-------------|
| Economic Development Authority Fund | 777,237 |
| Transportation Projects Fund | 3,200,000 |
| County Capital Fund | 7,504,366 |
| School Operating Fund | 269,107,562 |
| School Debt Service Fund | 21,395,040 |
| School Capital Projects Fund | 9,418,000 |
| School Nutrition Services Fund | 12,696,800 |
| NREP Operating Fund | 7,631,318 |
| NREP Textbook Fund | 30,000 |
| Consolidated Services/Maintenance Fund | 3,000,000 |
| School Private Purpose Funds | 1,300,000 |
| School Textbook Fund | 4,860,938 |

BE IT FURTHER RESOLVED that the Board of Supervisors of the County of Frederick, Virginia, does herein adopt the tax rates for the 2026 assessment year as follows:

Property Taxes – Rates per \$100 of assessed value

| | |
|--------|---|
| \$0.53 | Applied to real estate, including mobile homes |
| \$4.35 | Applied to personal property and business use vehicles |
| \$4.86 | Applied to business equipment assessed at 30% of original cost |
| \$2.25 | Applied to personal property on one vehicle to volunteer firefighters that are approved and registered with the Frederick County Fire and Rescue Department |

| | |
|----------|---|
| \$0.01 | Applied to aircraft |
| Zero tax | Applied to antique vehicles and mopeds |
| \$2.00 | On declining values to be applied to machinery and tools. The declining values are 60% for year one, 50% for year two, 40% for year three, and 30% for year four and all subsequent years. |
| \$2.00 | On apportioned percentage of book values to be applied to Contract Classified Vehicles and equipment |
| \$1.25 | Computer Equipment & Peripherals used in a Data Center. The declining values are 55% for year one, 45% for year two, 35% for year three, 25% for year four through 8, and 15% for all subsequent years. |

Business and Professional Occupational License Rates

| | |
|--|------------------------------------|
| Contractors | \$0.16 per \$100 of gross receipts |
| Retail | \$0.20 per \$100 of gross receipts |
| Financial, Real Estate, and Professional Services | \$0.58 per \$100 of gross receipts |
| Repair, personal and business services and all other businesses and occupations not specifically listed or exempted in the County Code | \$0.36 per \$100 of gross receipts |
| Wholesale | \$0.05 per \$100 of purchases |

The tax rates for other businesses and occupations specifically listed in the County Code are also unchanged.

Other General Taxes

| | |
|-------------------------|----------------------|
| Meals tax | 6% of gross receipts |
| Transient Occupancy tax | 6% of gross receipts |

Vehicle License Taxes

\$30 per vehicle and \$10 per motorcycle

Sanitary Landfill Fees

| | |
|--|------|
| Per ton for commercial/industrial | \$64 |
| Per ton for construction demolition debris | \$58 |
| Per ton for municipal waste | \$28 |
| Per ton for municipal sludge | \$44 |
| Per ton for Miscellaneous Rubble Debris | \$58 |

Shawneeland Sanitary District Taxes

| | |
|-----------------|-------|
| Unimproved Lots | \$190 |
| Improved Lots | \$660 |

Star Fort Subdivision Taxes/Fees

\$60 Per Lot

Street Light Fees

Oakdale Crossing \$35 annually

Fredericktowne \$45 annually

Green Acres \$25 annually

BE IT FURTHER RESOLVED that appropriations are hereby authorized for the central stores fund, special welfare fund, comprehensive services fund, county health insurance fund, school health insurance fund, public schools grant fund, employee benefits fund, maintenance insurance fund, development project/transportation fund, sales tax fund, commonwealth sales tax fund, unemployment compensation fund, Forfeited Assets Program, Four-For-Life Funds, Fire Programs, Peg funds, and Economic Incentive funds equal to the total cash balance on hand at July 1, 2026, plus the total amount of receipts for the fiscal year 2026-2027. The County Capital Projects Fund, County Capital Reserve Fund, Airport Capital Fund and Fire Company Capital appropriation will include the current year appropriation plus any unused funds at the end of the fiscal year 2026. The County Capital appropriation shall include funds transferred from and to other funds for classification and policy purposes.

BE IT FURTHER RESOLVED that construction and development fund projects are appropriated as a carryforward in the amount that equals the approved original project cost, less expenditures and encumbrances through June 30, 2026.

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BE IT FURTHER RESOLVED that, upon receiving notice of unbudgeted grant or program opportunities offered by various federal, state, local and other outside organizations, the County Administrator or his designee be, and is hereby, designated as the agent to execute the necessary grant or program application and other documentation, unless the terms of the grant or program require specific actions by the Board of Supervisors. The funding awarded, not to exceed \$100,000, and not requiring unbudgeted matching funds, and not requiring a continuing obligation, and not requiring the addition of staff, shall be, and is hereby, appropriated to the applicable functional area.

BE IT FURTHER RESOLVED that, all previously appropriated grants that remain outstanding at June 30, 2026 are re-appropriated to the 2027 fiscal year to the same program for which they were originally appropriated.

BE IT FURTHER RESOLVED that, upon receiving funds as donations, contributions, reimbursements, restitution, and/or funds held in trust for specific purpose(s), the County Administrator or his designee be, and is hereby, authorized to accept the funds, unless the terms of acceptance require specific actions by the Board of Supervisors. The funding, not to exceed \$100,000, and not requiring additional unbudgeted funds, and not requiring a continuing obligation, and not requiring the addition of staff, shall be, and is hereby appropriated for the purpose(s) intended.

BE IT FURTHER RESOLVED that, upon receiving funds through insurance claims for damages incurred to County property, not to exceed \$100,000, and not requiring additional unbudgeted funds, shall be, and is hereby appropriated for the repair and/or replacement of the damaged property.

BE IT FURTHER RESOLVED that, upon receipt of written notification from the State Compensation Board of additional funds for the Constitutional Officers (Commonwealth's Attorney, Sheriff, Clerk of Circuit Court, Treasurer, and Commissioner of the Revenue), the County Administrator or his designee be, and is hereby, authorized to accept the funds, unless the terms required specific actions by the Board of Supervisors, and not requiring additional unbudgeted local funds, the funding awarded shall be, and are hereby to be appropriated and expended in accordance with guidelines as established by the state government.

BE IT FURTHER RESOLVED that, the County receives funds per §17.1-279.1 of the Code of Virginia restricted for the County Sheriff solely to fund software, hardware, and associated equipment costs for the implementation and maintenance of electronic summons (e-summons) systems, the County Administrator or his designee be, and is hereby authorized to approve the purchase, shall be, and is hereby appropriated for the purpose(s) intended.

BE IT FURTHER RESOLVED that funding for all outstanding encumbrances on June 30, 2026, are re-appropriated to the 2026-2027 fiscal year to the same department and account for which they are encumbered in the 2025-2026 fiscal year.

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BOARD LIAISON REPORTS

Supervisor Aikens provided an update from the EDA.

CITIZEN COMMENTS

Blaine Dunn, Red Bud District, discussed the Board holding a town hall meeting on data center projects, and said the public should not accuse the Board members of a conflict of interest regarding data centers.

*Regular Meeting Minutes
Frederick County Board of Supervisors
April 8, 2026*

Leslie Spencer, Gainesboro District, announced a private citizens-sponsored data center information meeting.

Gary Krause, Shawnee District, said a conversation on data centers is needed and announced a private citizens-sponsored data center information meeting.

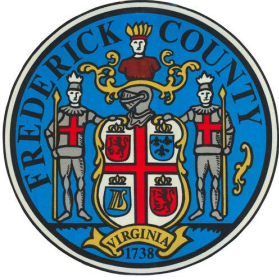
BOARD OF SUPERVISORS COMMENTS

Supervisor Guevremont discussed plans for changes in the County's communications with the constituents.

Chairman Jewell thanked the Board for its work on the budget.

ADJOURN

On motion of Vice Chairman Wells, seconded by Chairman Jewell, the meeting was adjourned at 8:14 p.m.



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title: Acceptance of Public Works Committee Report of March 31, 2026

Attachments:

[BOS04-22-26PublicWorksCommReport2026March31.pdf](#)

JOINT PUBLIC WORKS COMMITTEE REPORT
to the BOARD OF SUPERVISORS
Tuesday, March 31, 2026
9:00 a.m.
Public Works Conference Room
107 NORTH KENT STREET, WINCHESTER, VIRGINIA

PUBLIC WORKS COMMITTEE ATTENDEES:

Committee Members Present: Bob Wells, Chair; John Jewell; Al Orndorff; Kevin Kenney; Gary Longerbeam; Gene Fisher

Committee Members Absent: Ed Strawsnyder, Kris Tierney

Staff present: Joe C. Wilder, Director of Public Works; Andy Fox, County Attorney; Mark Fleet, Building Official; Ron Kimble, Landfill Manager; Christina Tasker, Animal Shelter Manager; Gloria Puffinburger, Solid Waste Manager; Tracy Boyd, Assistant Animal Shelter Manager; Olivia Bryan, Environmental Inspector

(Attachment 1) Agenda Packet

(Attachment 2) Shawneeland Easement

(Attachment 3) Animal Shelter Slide

ITEMS REQUIRING ACTION

1. Discuss and review revisions to County Code – Chapter 143 – Stormwater/Erosion and Sediment Control Ordinance.

Last year, Frederick County was notified by the Virginia Department of Environmental Quality (DEQ) that we are required to obtain a Municipal Separate Storm Sewer System (MS4) stormwater permit. We obtained coverage last year and have been developing our program. We submitted the County's program plan and GIS mapping to DEQ in February 2026 for review. In order to comply with DEQ requirements, Frederick County Code, Chapter 143, must include a section about illicit discharges, which is a new requirement with an MS4 permit. Therefore, we have amended Chapter 143 to include a new definition "illicit discharge" and a new section 143-180 prohibitions Illicit Discharges. The included language is directly from state documents.

The other change within the draft ordinance are updated DEQ VESMP permit fees. The new fee schedule becomes effective July 1, 2026. Frederick County collects these fees as part of our stormwater program and then DEQ bills their portion of the state fee. The state fees are shared between Frederick County and DEQ.

After some additional discussions, Supervisor Jewell made a motion to recommend approval of the revised ordinance and to forward it to the Board of Supervisors for approval. The motion was unanimously approved by the committee.

2. Acceptance of Utility Services Agreement – Shawneeland Sanitary District.

A homeowner in Shawneeland, a Mr. Thomas Curry wants to build on Lot 10 which is along Echota Trail. In providing electrical service to the lot, Shenandoah Valley Electrical

Coop (SVEC) is requesting a utility service easement from Frederick County for the placement of a future power pole on County owned property. (see attachment 2) The easement will allow SVEC to maintain the area around the power pole and service line. Since the land is owned by Frederick County a public hearing will be required and approval by the Board of Supervisors.

The Public Works Committee has consensus to forward the easement request to the Board of Supervisors for review and approval.

ITEMS FOR INFORMATION ONLY

Update: MS4 Stormwater Program Development

3. The committee was updated on the development of the County's MS4 Program. The proposed program plan and GIS MS4 service area maps have been submitted to DEQ for review. Once the proposed FY 2027 budget is approved, we will move forward with getting a new position approved by the Human Resources Committee. The new title of Environmental Specialist needs to be added to the County's SAP.

4. Investigations – Out of Area Waste Haulers Landfill/Convenience Sites

We continue to receive reports of out-of-area waste being disposed of at the Frederick County Landfill. In response to complaints, staff recently met with the County Sheriff and key staff along with the County Attorney. After discussions were held, the Sheriff has agreed to assist with enforcement of County Code Chapter 142.

5. Discussion – MSW/CDD Tipping Fees

It has been clearly documented that we will reach capacity at our CDD Landfill, area 1 within the next 9 – 12 months. We are currently developing and permitting area 2, but we don't anticipate having this area open for waste disposal until 2028. Once phase 1 of the CDD is at capacity all waste will have to be transported to the MSW Landfill. Once that occurs, all haulers regardless of waste type will have to pay the MSW tipping fees. The committee members and staff agreed that passing this information along to all landfill customers is very important. Staff will ensure this happens as we move into the summer of 2026.

6. Update – Roundhill/Magic Mountain Citizen Convenience Center

Frederick County currently owns 1.40 acres of land where the Roundhill/Magic Mountain Citizen Convenience Center is located. We have operated the site for over 30 years. The tract of land was part of a large section of property owned by the Rhinehart Family. There is approximately nine (9) acres of land adjacent to our site that was recently sold. In order to access this adjacent property, access is through a 50-foot Ingress/Egress easement. Depending on new owners, we may have to coordinate access to this property, and it may impact on convenience site. I will keep the committee updated on any changes.

7. We discussed creating a Pet Recreation Area outside of the Animal Shelter within a large fenced area. We are proposing to create pods so multiple animals can be outside at one time, which will help in many ways. We requested \$50,000 from the donation reserve and be placed in county budget to install fencing and purchasing new dog houses.

A motion to approve the supplemental request in the amount of \$50,000 was made by Committee Member Fisher. The motion was seconded by Supervisor Jewell. The request was unanimously approved by the committee. This request will be forwarded to the Finance Committee for further review and discussion.

We also discussed several other items and community programs that the Animal Shelter staff is open to look into. The committee was very receptive and supported the possible programs. It was also suggested that we look into creating a committee that could support the Animal Shelter to discuss programs and community support. We will look into creation of a committee in the near future.

Respectfully submitted,

Public Works Committee

Bob Wells
John Jewell
Al Orndorff
Kris Tierney
Gene Fisher
Kevin Kenney
Ed Strawsnyder
Gary Longerbeam

By: Joe C. Wilder
Public Works Director

JCW/amr

Attachments: as stated

cc: Michael Bollhoefer, County Administrator
Jay Tibbs, Deputy County Administrator
Andrew Fox, County Attorney
Ron Kimble, Landfill Manager
Gloria Puffinburger, Solid Waste Manager
Kevin Alderman, Shawneeland District Manager
Christina Tasker, Animal Shelter Manager
Mark Fleet, Building Code Official
Jerry Elliott, Deputy Building Official
Olivia Bryan, Environmental Inspector
file



MEMORANDUM

TO: Public Works Committee

FROM: Joe C. Wilder, Director of Public Works

SUBJECT: Meeting of March 31, 2026

DATE: March 19, 2026

There will be a meeting of the Public Works Committee on Tuesday, March 31, 2026 at 9:00 a.m. **in the conference room located on the second floor of the north end of the County Administration Building at 107 North Kent Street, Suite 200.**

The agenda thus far is as follows:

1. Revisions to County Code, Chapter 143

a) Proposed changes are highlighted on pages 7, 35, 46, 52, 53, and 54 (Attachment 1)

2. Update: MS4 Stormwater Program Development

3. Investigations: Out-of-Area Waste Haulers / Landfill / Convenience Sites
(Attachment 2)

4. Update: Landfill Projects

5. Discussion: MSW/CDD Tipping Fees

6. Update: Roundhill/Magic Mountain Citizen Convenience Center

7. Animal Shelter – Pet Recreation Area

a) Use of donation funds (Attachment 3)

8. Miscellaneous Reports:

- a) Tonnage Report: Landfill (Attachment 4)
- b) Recycling Report (Attachment 5)
- c) Animal Shelter Dog Report (Attachment 6)
- d) Animal Shelter Cat Report (Attachment 7)
- e) Shawneeland Sanitary District Advisory Committee Meeting Minutes (Attachment 8)

JCW/amr

Attachments: as stated

1 **Stormwater/Erosion and Sediment Control Ordinance**
2 **Frederick County, Virginia. – Proposed County Code Chapter 143**
3 **FEBURARY 2026 DRAFT REVISION**
4
5

6 **§143-100 Purpose**
7

8 The Frederick County Board of Supervisors desires to protect the health, safety, welfare, and
9 property of Frederick County residents and businesses, and the quality of waters within the
10 County. The Frederick County Board of Supervisors recognizes that development tends to
11 degrade these waters through erosion and sedimentation, increased flooding, stream channel
12 erosion, and the transport and deposition of waterborne pollutants. This degradation is due, in
13 part, to increased stormwater runoff as property is developed. Hence, as required by § 62.1-
14 44.15:27 Code of Virginia and in compliance with the Virginia State Water Control Board
15 requirements, the Frederick County Board of Supervisors has determined that it is in the public
16 interest to establish requirements which regulate the discharge of stormwater runoff from
17 developments by integrating hydrologic and water quality functions into all aspects of a
18 development's design, landscape, and infrastructure.
19

20 A. The purpose of this chapter is to establish minimum stormwater management and erosion
21 and sediment control requirements which:
22

- 23 1. Reduce flood damage to property; minimize the impacts of increased stormwater
24 runoff from new land development.
25
- 26 2. Maintain the hydraulic adequacy of existing and proposed culverts, bridges, dams,
27 and other structures.
28
- 29 3. Prevent, to the greatest extent feasible, an increase in nonpoint source pollution.
30
- 31 4. Maintain the integrity of stream channels for their biological functions and
32 drainage.
33
- 34 5. Maintain natural drainage patterns to the extent practicable to promote existing
35 hydrologic processes.
36
- 37 6. Promote infiltration of stormwater to recharge groundwater resources.
38
- 39 7. Minimize the impact of development upon stream erosion.
40
- 41 8. Preserve and protect water supply facilities from increased flood discharges,
42 stream erosion, and nonpoint source pollution.
43
- 44 9. Establish provisions for long-term responsibility for and maintenance of
45 stormwater management control devices and techniques to manage the quality and
46 quantity of stormwater runoff.

10. Provide effective control of soil erosion and sediment deposition and to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources.

- B. This chapter supplements and is to be applied in conjunction with Frederick County building code, subdivision, and zoning ordinances as they apply to the development or subdivision of land within the County.

§143-105 Authority

- A. This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.3 (§ 62.1-44.15:24 et seq.), known as the “Virginia Erosion and Stormwater Management Act”(VESMA)
- B. Pursuant to the Code of Virginia § 62.1-44.15:54, the Frederick County Public Works Department is designated as the Virginia Erosion and Sediment Control Program (VESCP) authority to operate a Virginia Erosion and Sediment Control Program in Frederick County, Virginia and for the Towns of Middletown and Stephens City in compliance with all required elements hereto.
- C. Pursuant to the Code of Virginia § 62.1-44.15:27, the Frederick County Public Works Department is designated as a Virginia Stormwater Management Program (VSMP) authority to operate a Virginia Stormwater Management Program in Frederick County, Virginia and for the Towns of Middletown and Stephens City in compliance with all required elements hereto.

§143-110 Definitions

In addition to the definitions set forth in 9VAC25-875-20 of the Virginia Erosion and Stormwater Management Regulation, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter have the following meanings for the purposes of this chapter, unless the context clearly indicates otherwise.

ADMINISTRATOR

The Virginia Erosion and Stormwater Management Program (VESMP) authority has been designated to the Frederick County Public Works Department responsible for administering the VESMP on behalf of Frederick County, Virginia.

AGREEMENT IN LIEU OF AN EROSION AND SEDIMENT CONTROL PLAN

A contract between the VESMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of VESMA and this chapter for the construction of a (i) single-family residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of

less than 5.0%; such contract may be executed by the VESMP authority in lieu of a soil erosion control and stormwater management plan or by the department acting as a VSMP authority in lieu of a stormwater management plan..

AGREEMENT IN LIEU OF STORMWATER MANAGEMENT PLAN

A contract between the VESMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VESMP for the construction of a single-family residence; such contract may be executed by the VESMP authority in lieu of a stormwater plan.

APPLICANT

Any person submitting a soil erosion control and stormwater management plan to a VESMP authority, or a stormwater management plan to the department when it is serving as a VSMP authority, for approval in order to obtain authorization to commence a land-disturbing activity.

BEST MANAGEMENT PRACTICE or BMP

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.

1. "Nonproprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are in the public domain and are not protected by trademark or patent or copyright.

2. "Proprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are privately owned and controlled and may be protected by trademark or patent or copyright.

BEST MANAGEMENT PRACTICE IMPLEMENTATION PLAN or BMP IMPLEMENTATION PLAN

Is a site-specific design plan for the implementation of BMPs on an individual single-family lot or other parcel with less than one acre of land disturbance within a larger common plan of development. The BMP Implementation Plan provides detailed information on the implementation of the SWM pollutant load and volume reduction BMP and other requirements for the individual lot or parcel as detailed in the SWPPP and SWM plans of the VESMP Permit for the larger common plan of development.

BOARD

The Virginia State Water Control Board. When used outside the context of the promulgation of regulations, including regulations to establish general permits, "board" means the Department of Environmental Quality.

CERTIFICATION

The designation issued by the department, on behalf of the Commonwealth, to individuals who have completed department-approved training programs and met any additional eligibility requirements or in other ways demonstrated adequate knowledge and experience in accordance with the eligibility requirements of 9VAC25-875-410 related to the specified classifications (9VAC25-875-400) within the separate subject areas of ESC or SWM or both.

CHANNEL

A natural stream or manmade waterway.

CLEAN WATER ACT OR CWA

The federal Clean Water Act (33 USC §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.

CLEARING

Any activity which removes vegetative ground cover including, but not limited to, root material removal or topsoil removal.

COMMENCEMENT OF LAND DISTURBANCE

The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of soil fill material).

COMMON PLAN OF DEVELOPMENT

The contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

CONTROL MEASURE

Any BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

COUNTY

County of Frederick, Virginia.

DEPARTMENT

The Department of Environmental Quality.

DESIGN STORM

For purposes of addressing quantity control provisions of §143-165 means the one-year, two-year, 10-year, 24-hour design storms as defined in §143-145E. The design storm for purposes of complying with the water quality provisions of §143-165C is the one-inch rainfall depth as applied with the “Virginia Runoff Reduction Method”

DEVELOPMENT

Either or both of the following:

- 184 A. Land disturbance and the resulting landform associated with the construction of
185 residential, commercial, industrial, institutional, recreation, transportation or
186 utility facilities or structures or the clearing of land for non-agricultural or non-
187 silvicultural purposes.
- 188 B. A tract or parcel of land developed or to be developed as a single unit under single
189 ownership or unified control which is to be used for any business or industrial
190 purpose or is to contain three or more residential dwelling units.
- 191
- 192 **DIRECTOR**
- 193 The Director of Frederick County Public Works or assigned designee.
- 194
- 195 **DRAINAGE AREA**
- 196 A land area, water area, or both from which runoff flows to a common point.
- 197
- 198 **EROSION AND SEDIMENT CONTROL (ESC) PLAN OR PLAN**
- 199 A document containing material for the conservation of soil and water resources of a unit
200 or group of units of land. It may include appropriate maps, an appropriate soil and water
201 plan inventory and management information with needed interpretations, and a record of
202 decisions contributing to conservation treatment. The plan shall contain all major
203 conservation decisions to ensure that the entire unit or units of land will be so treated to
204 achieve the conservation objectives.
- 205
- 206 **EROSION IMPACT AREA**
- 207 An area of land not associated with current activity but subject to persistent soil erosion
208 resulting in the delivery of sediment onto neighboring properties or into state waters. This
209 definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for
210 residential purposes or to shorelines where the erosion results from wave action or other
211 coastal processes.
- 212
- 213 **EXCAVATING**
- 214 Any digging, scooping or other methods of removing earth materials.
- 215
- 216 **FILLING**
- 217 Any depositing or stockpiling of earth materials.
- 218
- 219 **FINAL STABILIZATION**
- 220 One of the following situations has occurred:
- 221
- 222 A. All soil-disturbing activities at the construction site have been completed and a
223 permanent vegetative cover has been established on denuded areas not otherwise
224 permanently stabilized. Permanent vegetation shall not be considered established
225 until a ground cover is achieved that is uniform (e.g., evenly distributed), provides
226 75% or more vegetative cover with no significant bare areas, is mature enough to
227 survive, and will inhibit erosion.
- 228

B. For individual lots in residential construction, final stabilization can occur by either:

- 1) The homebuilder completing final stabilization as specified in Subsection A of this definition; or
- 2) The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6 of 9VAC25-880-70

C. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in Subsection A of this definition.

FLOOD-FRIDGE

The portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes the flood or floodway fringe designated by the Federal Emergency Management Agency.

FLOODING

A volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

FLOODPLAIN

The area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes the floodplain designated by the Federal Emergency Management Agency.

FLOOD-PRONE AREA

The component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved to discharge the 100-year flood or

storm event without cumulatively increasing the water surface elevation more than one foot. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency.

GENERAL PERMIT

A permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

GRADING

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

HYDROLOGIC UNIT CODE or HUC

A watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

ILLICIT DISCHARGE

Means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharge pursuant to a separate VPDES or permit (other than the permit for discharges from the municipal separate storm sewer), discharges resulting from firefighting activities, and discharges identified by and in compliance with 9VAC25-875-970 D 2 c (3).

IMMEDIATELY

As soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased. In the context of this general permit, "immediately" is used to define the deadline for initiating stabilization measures.

IMPAIRED WATERS

Surface waters identified as impaired on the most recent Water Quality Assessment Integrated Report.

IMPERVIOUS COVER

A surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

INFEASIBLE

Not technologically possible or not economically practicable and achievable in light of best industry practices.

INITIATION OF STABILIZATION ACTIVITIES:

- A. Prepping the soil for vegetative or non-vegetative stabilization;
- B. Applying mulch or other non-vegetative product to the exposed area;
- C. Seeding or planting the exposed area;

D. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; or

E. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

INSPECTION

An onsite review of the project's compliance with any applicable design criteria, or an onsite review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the VESMA, ESCL, and applicable regulations.

KARST AREA

Any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

KARST FEATURES

Sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

LAND DISTURBANCE or LAND-DISTURBING ACTIVITY

A manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

LAND-DISTURBANCE APPROVAL

An approval allowing a land-disturbing activity to commence issued by (i) a VESMP or VSMP authority after the requirements of § 62.1-44.15:34 of the Code of Virginia have been met or (ii) a VESCP authority after the requirements of § 62.1-44.15:55 of the Code of Virginia have been met.

LAYOUT

A conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

LOCALIZED FLOODING

Smaller-scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

MAIN CHANNEL

The portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

MAJOR MODIFICATION

For the purposes of this chapter, the modification or amendment of an existing state permit before its expiration that is not a minor modification as defined in this regulation.

MANMADE

Constructed by man.

MEASURABLE STORM EVENT

A rainfall event producing 0.25 inches of rain or greater over 24 hours or snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period.

MINOR MODIFICATION

For the purposes of this chapter, minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40 CFR 122.63 and as specified in 9VAC25-875-1240. Minor modification for the purposes of this chapter also means other modifications and amendments 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 state permit modification or amendment does not substantially alter state 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.

NATURAL CHANNEL DESIGN CONCEPTS

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

NATURAL STREAM

A tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

OPERATOR

The owner or operator of any facility or activity subject to the VESMA and this chapter. In the context of stormwater associated with a large or small construction activity, "operator" means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit or VESMP authority permit conditions (i.e., the person is authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). In the context of

stormwater discharges from an MS4, "operator" means the operator of the regulated MS4 system..

OWNER

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

PEAK FLOW RATE

The maximum instantaneous flow from a prescribed design storm at a particular location.

PERCENT IMPERVIOUS

The impervious area within the site divided by the area of the site multiplied by 100.

PERMIT or VESMP AUTHORITY PERMIT

An approval to conduct a land-disturbing activity issued by the Frederick County Public Works Department, the permit-issuing VESMP authority, for the initiation of a land-disturbing activity after evidence of coverage under the General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 et seq. of the Virginia Stormwater Management Program Regulations has been provided. A person shall not conduct any land disturbing activity until he has submitted a permit application to the County that includes a state VESMP permit registration statement, if such statement is required, a stormwater management plan or an executed agreement in lieu of a stormwater plan and has obtained County approval to begin land disturbance.

PERMITTEE

The person to whom the land-disturbing permit or approval is issued, and/or the person to whom the VESMP permit is issued, and/or the person who certifies that the approved erosion and sediment control plan will be followed and/or the person who certifies that the approved stormwater plan will be followed.

PERSON

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 OF DISCHARGE

A location at which concentrated stormwater runoff is released.

POST-DEVELOPMENT

Refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

PREDEVELOPMENT

Refers to the conditions that exist at the time that plans for the land-disturbing activity are submitted to the plan approval VESMP authority. Where phased development or plan

approval occurs (e.g. preliminary grading, demolition of existing structures, roads, and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

PRIOR DEVELOPED LAND

Land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

QUALIFIED PERSONNEL

A person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold an unexpired Dual Inspector certification issued by the department; an unexpired Inspector for Erosion and Sediment Control certification and an unexpired Inspector for Stormwater Management certification, both issued by the department ; a Construction General Permit Qualified Personnel Certificate issued by the department or the Virginia Department of Transportation; or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).

REGULATIONS

The Virginia Erosion and Stormwater Management Regulation, 9VAC25-875-10, et seq, as amended; or the general VPDES permit regulations, 9VAC 25-880-10 et seq., as amended.

RESPONSIBLE LAND DISTURBER or “RLD”

An individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan or permit as defined in this chapter as a prerequisite for engaging in land disturbance.

RUNOFF or STORMWATER RUNOFF

That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

RUNOFF CHARACTERISTICS

Include maximum velocity, peak flow rate, volume, and flow duration.

RUNOFF VOLUME

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

504
505 SINGLE FAMILY RESIDENCE

506 A noncommercial dwelling that is designed to be occupied exclusively by one family.
507

508 SITE

509 The land or water area where any facility or land-disturbing activity is physically located
510 or conducted, including adjacent land used or preserved in connection with the facility or
511 land-disturbing activity.
512

513 SITE HYDROLOGY

514 The movement of water on, across, through, and off the site as determined by parameters
515 including soil types, soil permeability, vegetative cover, seasonal water tables, slopes,
516 land cover, and impervious cover.
517

518 STATE

519 The Commonwealth of Virginia.
520

521 STATE PERMIT

522 An approval to conduct a land-disturbing activity issued by the Board in the form of a
523 state stormwater individual permit or coverage issued under a state general permit or an
524 approval issued by the Board for stormwater discharges from a municipal separate storm
525 sewer system (MS4). Under these state permits, the State imposes and enforces
526 requirements pursuant to the federal Clean Water Act and regulations, the Act, and this
527 chapter. As the mechanism that imposes and enforces requirements pursuant to the
528 federal Clean Water Act and regulations, a state permit for stormwater discharges from
529 an MS4 and, after June 30, 2014, a state permit for conducting a land-disturbing activity
530 issued pursuant to the Virginia Stormwater Management Act, are also types of Virginia
531 Pollutant Discharge Elimination System (VPDES) Permits. “State permit” does not
532 include any state permit that has not yet been the subject of final Board action, such as a
533 draft state permit. Approvals issued pursuant to this chapter, 9VAC25-880, and 9VAC25-
534 890 are not issuances of a permit under §62.1-44.15:01 of the Code of Virginia.
535

536 STATE WATERS

537 All water, on the surface and under the ground, wholly or partially within or bordering
538 the Commonwealth or within its jurisdiction, including wetlands.
539

540 STORMWATER

541 Precipitation that is discharged across the land surface or through conveyances to one or
542 more waterways and that may include stormwater runoff, snow melt runoff, and surface
543 runoff and drainage.
544

545 STORMWATER CONVEYANCE SYSTEM

546 A combination of drainage components that are used to convey stormwater discharge,
547 either within or downstream of the land-disturbing activity. This includes:
548

549 1. MAN-MADE STORMWATER CONVEYANCE SYSTEM

- 550 A pipe, ditch, vegetated swale, or other stormwater conveyance system constructed
551 by man except for restored stormwater conveyance systems;
552
- 553 2. NATURAL STORMWATER CONVEYANCE SYSTEM
554 The main channel of a natural stream and the flood-prone area adjacent to the main
555 channel; or
556
- 557 3. RESTORED STORMWATER CONVEYANCE SYSTEM
558 A stormwater conveyance system that has been designed and constructed using
559 natural channel design concepts. Restored stormwater conveyance systems include
560 the main channel and the flood-prone area adjacent to the main channel.
561
- 562 STORMWATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITY
563 A discharge of stormwater runoff from areas where land-disturbing activities (e.g.,
564 clearing, grading, or excavation); construction materials or equipment storage or
565 maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other
566 industrial stormwater directly related to the construction process (e.g., concrete or asphalt
567 batch plants) are located.
568
- 569 STORMWATER MANAGEMENT CONCEPT PLAN
570 Documents developed at the preliminary plan, zoning, or other state of the development
571 process that establish the initial layout of the development along with sufficient
572 information to ensure that the final development stormwater management plan will
573 comply with this chapter.
574
- 575 STORMWATER MANAGEMENT FACILITY
576 A control measure that controls stormwater runoff and changes the characteristics of that
577 runoff including the quantity and quality, the period of release or the velocity of flow.
578
- 579 STORMWATER MANAGEMENT HANDBOOK
580 The Virginia Stormwater Management Handbook and/or a locally adopted erosion and
581 sediment control handbook with such amendments, modifications and supplements as may,
582 from time to time, be properly adopted.
583
- 584 STORMWATER MANAGEMENT PLAN
585 Documents containing material describing methods for complying with the requirements
586 of a VESMP.
587
- 588 STORMWATER POLLUTION PREVENTION PLAN or SWPPP
589 A document that is prepared in accordance with good engineering practices and that
590 identifies potential sources of pollutants that may reasonably be expected to affect the
591 quality of stormwater discharges. A SWPPP required under a VESMP or VSMP for
592 construction activities shall identify and require the implementation of control measures
593 and shall include or incorporate by reference an approved erosion and sediment control
594 plan, an approved stormwater management plan, and a pollution prevention plan.
595

596 STORMWATER POLLUTION PREVENTION PLAN TEMPLATE or SWPPP TEMPLATE

597 Documents intended to be used for single family residential construction activity that
598 disturbs less than one acre of land and is part of a larger common plan of development to
599 identify all applicable requirements of the SWPPP that was developed for the larger
600 common plan of development.

601
602 SUBDIVISION

603 The same as defined in the Frederick County Subdivision Ordinance (Chapter **144** of
604 Frederick County, Virginia Code).

605
606 SURFACE WATERS

607 1. All waters that are currently used, were used in the past, or may be susceptible to use
608 in interstate or foreign commerce, including all waters that are subject to the ebb and flow
609 of the tide;

610
611 2. All interstate waters, including interstate wetlands;

612
613 3. All other waters such as intrastate lakes, rivers, streams (including intermittent
614 streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa
615 lakes, or natural ponds the use, degradation, or destruction of which would affect or could
616 affect interstate or foreign commerce including any such waters:

617
618 a. That are or could be used by interstate or foreign travelers for recreational or other
619 purposes;

620
621 b. From which fish or shellfish are or could be taken and sold in interstate or foreign
622 commerce; or

623
624 c. That are used or could be used for industrial purposes by industries in interstate
625 commerce;

626
627 4. All impoundments of waters otherwise defined as surface waters under this definition;

628
629 5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;

630
631 6. The territorial sea; and

632
633 7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified
634 in subdivisions 1 through 6 of this definition.

635
636 Waste treatment systems, including treatment ponds or lagoons designed to meet the
637 requirements of the CWA and the law, are not surface waters. Surface waters do not
638 include prior converted cropland. Notwithstanding the determination of an area's status as
639 prior converted cropland by any other agency, for the purposes of the CWA, the final
640 authority regarding the CWA jurisdiction remains with EPA.

642 TOTAL MAXIMUM DAILY LOAD or TMDL

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

647
648 TOWN

649 Either of the incorporated Towns of Middletown or Stephens City.

650
651 VIRGINIA EROSION AND SEDIMENT CONTROL PERMIT PROGRAM AUTHORITY

652 The County, which has adopted a soil erosion and sediment control program that has
653 been approved by the Board, is the Virginia Erosion and Sediment Control Permit
654 Program Authority for issuance of land disturbing permits, plan review, inspections, and
655 enforcement of compliance with applicable laws and regulations, in the County and in the
656 Towns of Middletown and Stephens City.

657
658 VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM or VESCP

659 A program approved by the Board that has been established by a VESCP authority for the
660 effective control of soil erosion, sediment deposition, and non-agricultural run-off
661 associated with a land disturbing activity to prevent the unreasonable degradation of
662 properties, stream channels, waters, and other natural resources and shall include items
663 where applicable as local ordinances, rules, permit requirements, annual standards and
664 specifications, policies and guidelines, technical materials, and requirements for plan
665 review, inspection, enforcement where authorized in this chapter, and evaluation
666 consistent with the requirements of this chapter and its associated regulations.

667
668 VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM (VESCP) LAND
669 DISTURBANCE or VESCP LAND-DISTURBING ACTIVITY

670 Any man-made change to the land surface that may result in soil erosion from water or
671 wind and the movement of sediments into state waters or onto lands in the State,
672 including, but not limited to, clearing, grading, excavating, transporting, and filling of
673 land, except that the term shall not include:

- 674
- 675 A. Minor land-disturbing activities such as home gardens and individual home landscaping,
676 repairs and maintenance work;
 - 677
 - 678 B. Individual service connections;
 - 679
 - 680 C. Installation, maintenance, or repair of any underground public utility lines when such
681 activity occurs on an existing hard surfaced road, street or sidewalk provided the land-
682 disturbing activity is confined to the area of the road, street or sidewalk that is hard
683 surfaced;
 - 684
 - 685 D. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing
686 activity relating to construction of the building to be served by the septic tank system;
 - 687

- E. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;
- F. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100 et seq.) of Title 10.1 of the code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection **B** of §10.1-1163 of the Code of Virginia;
- G. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- H. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
- I. Disturbed land areas of less than 10,000 square feet in size; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;
- J. Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;
- K. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this and the regulations adopted pursuant thereto; and
- L. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

VIRGINIA STORMWATER BMP CLEARINGHOUSE

A collection that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the VESMA and associated regulations.

VIRGINIA EROSION AND STORMWATER MANAGEMENT ACT or VESMA
Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1, State Water Control Law, of Title 62.1 of the Code of Virginia.

VIRGINIA STORMWATER MANAGEMENT HANDBOOK
a collection of pertinent information that provides general guidance for compliance with the VESMA and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

VIRGINIA STORMWATER MANAGEMENT PROGRAM or VSMP
The program established by the County and approved by the Board to manage the quality and quantity of runoff resulting from land-disturbing activities and includes the County's local ordinance and requirements for plan review, inspection, enforcement, permit requirements, policies and guidelines, and technical materials.

VIRGINIA STORMWATER MANAGEMENT PROGRAM AUTHORITY or VSMP AUTHORITY
The County, which has adopted a stormwater management program that has been approved by the Board, is the VSMP Authority for issuance of VSMP authority permits, plan review, inspections, and enforcement of compliance with applicable laws and regulations, in the County and in the Towns of Middletown and Stephens City.
A program approved by the Board after September 13, 2011, to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in the Act and associated regulations, and evaluation consistent with the requirements of the Act and associated regulations.

VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) LAND DISTURBANCE or VSMP LAND-DISTURBING ACTIVITY

A manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include:

- A. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1.
- B. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or

improved pasture use as described in Subsection **B** of § 10.1-1163 of the Code of Virginia.

- C. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures.
- D. Land-disturbing activities that disturb less than one acre of land area except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance.
- E. Discharges to a sanitary sewer or a combined sewer system.
- F. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use.
- G. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection.
- H. 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 VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of §143-130, including a registration statement that substantiates the occurrence of an emergency, is required within 30 days of commencing the land-disturbing activity.

VSMP CONSTRUCTION GENERAL PERMIT or CONSTRUCTION GENERAL PERMIT or CGP

The General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 of the Virginia Stormwater Management Program Regulations

WASTELOAD ALLOCATION or WASTELOAD or WLA

The portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

WATERSHED

A defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

825 WETLANDS

826 Those areas that are inundated or saturated by surface or groundwater at a frequency and
827 duration sufficient to support, and that under normal circumstances do support, a
828 prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands
829 generally include swamps, marshes, bogs, and similar areas.

831 **§143-125 Permits required; exemptions**

- 832
- 833 A. No person shall conduct a VESCP land-disturbing activity as defined in **§143-110** until
834 the County land-disturbing permit has been obtained from the Administrator and
835 maintains in good standing, a permit entitling such person and any contractor or agent of
836 such person to conduct such activity. No permit involving land-disturbing activity will
837 be issued without an approved erosion and sediment control plan by Frederick County
838 and certification that the plan will be carried out by the designated Responsible Land
839 Disturber. Prior to initiating grading or other on-site activities on any portion of a lot or
840 parcel, all associated permits required by Federal, State, and local laws and regulations
841 shall be obtained, and evidence of such permits submitted to the County.

842
843 Reference: § 62.1-44.15:55

- 844
- 845 B. No person shall conduct a VSMP land-disturbing activity as defined in **§143-110** until a
846 Frederick County land-disturbing permit as required in Subsection A and a VSMP
847 authority permit has been obtained from the Administrator and maintains in good
848 standing, a permit entitling such person and any contractor or agent of such person to
849 conduct such activity. No permit involving a VSMP land-disturbing activity will be
850 issued without a stormwater management plan approved by the County.

851
852 Reference: § 62.1-44.15:34. A

853

854 **§143-130 Permit application**

- 855
- 856 A. Prior to issuance of a Frederick County land-disturbing permit for a VESCP land-
857 disturbing activity, the following items must be submitted in accordance with the
858 provisions of this chapter and approved:
- 859
- 860 1. Completed Frederick County land-disturbing permit application;
 - 861
 - 862 2. The approved erosion and sediment control plan or an executed agreement in lieu
863 of an erosion and sediment control plan;
 - 864
 - 865 3. The performance bond(s) in compliance with **§143-240**;
 - 866
 - 867 4. The applicable permit fee;
 - 868
 - 869 5. Completed land disturbance permit fee calculation form;
 - 870

- 871 6. All applicable outside agency approvals; and
872
873 7. Copies of all applicable local, state, and federal permits.
874
- 875 B. Prior to issuance of a Frederick County VSMP permit for a VSMP land-disturbing
876 activity the following items must be submitted in accordance with the provisions of this
877 chapter and approved:
878
- 879 1. The requirements of a land-disturbing permit application of Subsection A;
880
881 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements
882 applicable to a VESMP land-disturbing activity;
883
884 3. A stormwater management plan or an executed agreement in lieu of a plan that
885 complies with Virginia stormwater requirements and the County stormwater
886 requirements as outlined in this regulation;
887
888 4. A VESMP Authority permit application/registration statement if such statement is
889 required. A person shall not conduct any land-disturbing activity until he has
890 submitted a permit application to the VESMP authority that includes a state VESMP
891 permit statement if such statement is required. A registration statement is not required
892 for a detached single-family home construction within or outside of a common plan
893 of development or sale, but such projects must adhere to the requirements of the
894 general permit; (§62.1-44.15:28.8)
895
896 5. All applicable fees
897
898 6. Evidence of coverage under the state general permit for discharges from construction
899 activities through the state electronic database; and
900
901 7. BMP Maintenance Agreement
902
903
- 904 Reference: 9VAC25-875-500; 9VAC25-875-510; 9VAC25-875-530; 9VAC25-875-535;
905 9VAC25-875-1290, et seq.; 62.1-44.15:34
906
- 907 C. Prior to issuing coverage under an existing VSMP Authority permit for a land-disturbing
908 activity within a common plan of development, the following items must be addressed:
909
- 910 1. The requirements of a Frederick County land-disturbing permit application of
911 Subsection A;
912
913 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements
914 applicable to a VSMP and disturbing activity, or when the area of disturbance is less
915 than one acre, a SWPPP Template and a BMP Implementation Plan consistent with
916 the BMP performance goals of the common plan of development; and

- 917
918 3. A stormwater management plan that complies with Virginia stormwater requirements
919 and the County stormwater requirements as outlined in this regulation.
920

- 921 D. Whenever a land-disturbing activity is proposed to be conducted by a contractor
922 performing construction work pursuant to a construction contract, the preparation and
923 submission of plans, obtaining approval of the required plans, and obtaining all required
924 permits shall be the responsibility of the owner of the land.
925

926 Reference: §62.1-44.15.34; 9VAC25-875-500; 9VAC25-875-510;
927
928

929 **§143-145 Applicable design standards, specifications and methods**
930

- 931 A. The standards contained within the Virginia Erosion and Stormwater Management
932 Regulation (VESMR), the Virginia Stormwater Management Handbook (VSMH) (latest
933 version), and any additional guidance provided by the VESMP Authority are to be used
934 by the applicant in the preparation and submission of an erosion and sediment control
935 plan, and by the VESMP Authority in considering the adequacy of a plan submittal.
936 When the standards vary between the publications, the state regulations shall take
937 precedence unless otherwise noted in this chapter.
938
- 939 B. The latest approved version of BMPs found on the Virginia Stormwater BMP
940 Clearinghouse Website or the Virginia DEQ website shall be utilized to effectively
941 reduce the pollutant load and runoff volume as required in this chapter in accordance with
942 the Virginia Runoff Reduction Method.
943

944 Reference: 9VAC25-875-590
945

- 946 C. The erosion and sediment control plan and stormwater management plan shall consider
947 all sources of surface runoff and all sources of subsurface and groundwater flows
948 converted to surface run-off.
949

950 Reference: 9VAC25-875-510
951

- 952 D. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater
953 management criteria to the development project as a whole. Individual lots or parcels
954 shall not be considered separate development projects, but rather the entire subdivision
955 shall be considered a single development project. Hydrologic parameters shall reflect the
956 ultimate development and shall be used in all engineering calculations. Implementation of
957 the plan may be phased or carried out by individual or separate applicants as referenced
958 in **§143-130.C**.
959

- 960 E. Unless otherwise specified, the following shall apply to the hydrologic computations of
961 this section:
962

1. The prescribed design storms are the 1-year, 2-year, 10-year and 100-year 24-hour storms using the site-specific rainfall precipitation frequency data recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14 and provided in the VA SWM Handbook.
 2. All hydrologic analyses shall be based on the existing watershed characteristics and how the ultimate development condition of the subject project will be addressed.
 3. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20, hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers, or other NRCS standard hydrologic and hydraulic methods, shall be used to conduct the analyses described in this part.
 4. For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation.
 5. Pre-development and post-development runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall be considered appropriate practices.
- Reference: 9VAC25-875-600; 9VAC25-875-620
6. All proposed sediment control or stormwater impounding structures shall be designed in accordance with State standards.

Reference: 9VAC25-875-650

§143-148 Grandfathering provisions

- A. Any VESMP land-disturbing activity shall be considered grandfathered by the VESMP authority and shall be subject to the technical criteria of Article 4 (9VAC25-875-670 et seq.) of the regulations provided:
 1. 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 locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the Part II C technical criteria of this chapter, and (iv) 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;

- 1009 2. A state permit has not been issued prior to July 1, 2014; and
1010
1011 3. Land-disturbance did not commence prior to July 1, 2014.
1012
1013 B. Locality, state, and federal projects shall be considered grandfathered by the VESMP
1014 authority and shall be subject to the technical criteria of Article 4 of this chapter
1015 provided:
1016
1017 1. There has been an obligation of locality, state, or federal funding, in whole or in part,
1018 prior to July 1, 2012, or the department has approved a stormwater management plan
1019 prior to July 1, 2012;
1020
1021 2. State permit has not been issued prior to July 1, 2014; and
1022
1023 3. Land disturbance did not commence prior to July 1, 2014.
1024
1025 C. Land disturbing activities grandfathered under Subsections A and B of this section shall
1026 remain subject to the technical criteria of Article 4 of this chapter for one additional state
1027 permit cycle. After such time, portions of the project not under construction shall become
1028 subject to any new technical criteria adopted by the Board.
1029
1030 D. In cases where governmental bonding or public debt financing has been issued for a
1031 project prior to July 1, 2012, such project shall be subject to the technical criteria of
1032 Article 4.
1033
1034 E. Nothing in this section shall preclude an operator from constructing to a more stringent
1035 standard at his discretion.
1036

1037 Reference: 9VAC25-875-490, § 62.1-44.15:25, 62.1-44.15:28
1038

1039 **§143-150 Stormwater pollution prevention plan components and applicability**

1040 For each of the following activities as may be relevant, a stormwater pollution prevention plan
1041 (SWPPP) shall contain the indicated components:
1042

1043 A. VESCP Activities:
1044

- 1045 1. General SWPPP requirements as described in **§143-155**;
1046
1047 2. An erosion and sediment control (ESC) plan or if single-family residential
1048 construction an agreement in lieu of an ESC plan as described in **§143-160**.
1049

1050 B. VESMP land-disturbing activities:
1051

- 1052 1. General SWPPP requirements as described in **§143-155**;
1053

- 1054 2. An ESC plan or if single-family residential construction an agreement in lieu of an
1055 ESC plan as described in §143-160;
1056
1057 3. A SWM plan as described in §143-165; and
1058
1059 4. A PPP plan as described in §143-175.
1060
1061 C. VESMP land-disturbing activities part of a larger Common Plan of Development shall
1062 include:
1063
1064 1. General SWPPP requirements as described in §143-155;
1065
1066 2. An ESC plan or if single family residential construction an agreement in lieu of an
1067 ESC plan as described in §143-160;
1068
1069 3. A SWM Plan as described in §143-165, or if less than 1 acre a BMP Implementation
1070 Plan or a completed SWPPP Template demonstrating compliance with all applicable
1071 elements of the approved SWPPP developed for the larger common plan of
1072 development.
1073
1074 D. The requirements for a SWPPP as outlined in §9VAC25-875-500 shall be included with
1075 each plan submitted for review.
1076

1077 Reference: § 62.1-44.15:34; 9VAC25-875-500; 9VAC25-875-510; 9VAC25-875-520;
1078 9VAC25-875-550; 9VAC-880-70 Part II.
1079

1080 **§143-155 General stormwater pollution prevention plan (SWPPP) requirements**

1081

- 1082 A. In addition to the applicable components as provided in §143-150, a Stormwater
1083 Pollution Prevention Plan (SWPPP) shall include all items identified within the Virginia
1084 General VPDES Permit for Discharges of Stormwater Construction Activity (General
1085 Permit No.: VAR10).
1086
1087 B. Prior to engaging in the activities shown on the approved plan, the person responsible for
1088 carrying out the plan shall provide the name of a qualified person to the Administrator.
1089 Failure to provide the name of an individual holding a certificate of competence prior to
1090 engaging in land-disturbing activities may result in revocation of the approval of the plan
1091 and the person responsible for carrying out the plan shall be subject to the penalties
1092 provided in §143-225.
1093

1094 Reference: § 62.1-44.15:34 A, 62.1-44.15:55 B
1095

- 1096 C. The SWPPP must be maintained at a central location on-site. If an on-site location is
1097 unavailable, notice of the SWPPP's location must be posted near the main entrance at the
1098 construction site. The operator shall make SWPPP's and all updates available upon
1099 request to County personnel.

Reference: 9VAC25-875-500

§143-160 Erosion and sediment control (ESC) program and plan requirements

- A. As stated in §143-150, Frederick County Public Works Department will be the program authority to operate the County's Erosion and Sediment Control Program. Pursuant to §62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The erosion control program of the County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person;
- B. As required in §143-150, an erosion and sediment control plan shall be developed and referenced into the SWPPP where a SWPPP is required. The erosion and sediment control plan shall not be considered approved until reviewed by a certified plan reviewer. When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken by the County within 45 days, the plan shall be deemed approved, and the person authorized to proceed with the proposed activity.
- C. The erosion and sediment control plan shall be designed to control stormwater volume and velocity within the site to minimize soil erosion and to minimize sediment discharges from the site by incorporating all the minimum standards as outlined in 9VAC25-875-560, incorporate all requirements for flow rate capacity and velocity requirements as outlined in section 62.1-44.15:52.A of the Code of Virginia and incorporating the following performance goals to the maximum extent practicable:
1. The area of land disturbance at any one time shall be the minimum necessary to install and/or construct the proposed site improvements;
 2. The installation and/or construction of the proposed site improvements shall be phased to limit the duration of exposed soils to the minimum time needed to construct and/or install the improvements in the immediate vicinity of the disturbance;
 3. The disturbance and/or compaction of the existing native soils shall be minimized by directing construction traffic, material stockpiling, and other activities to only those areas of the site that are designated for proposed infrastructure (buildings, roads, parking areas, etc.);
 4. Disturbance of slopes 15% or steeper shall be avoided to the maximum extent practicable given the proposed site improvements. When disturbance of steep slopes is unavoidable, or the resulting grade of exposed soil is 15% or greater, the area shall be stabilized immediately with an approved soil stabilization measure;

- 1146 5. Existing topsoil shall be preserved to the maximum extent practical;
1147
1148 6. The selection and design of erosion and sediment controls shall be based on the
1149 expected frequency, intensity, and duration of precipitation, and the corresponding
1150 expected volume of runoff and sediment erosion, sedimentation, and transport during
1151 the land-disturbing activity:
1152
1153 a. The volume and peak flow rate of runoff from the construction site should be
1154 estimated for the 2-year and/or 10-year design storms as required for the
1155 individual controls being considered using accepted NRCS hydrologic methods as
1156 described in the Virginia Stormwater Management Handbook, latest version; and
1157
1158 b. The expected volume of sediment erosion, sedimentation, and transport during
1159 activities should be estimated considering the surface area, length, and slope of
1160 exposed soil, the soil horizons exposed by grading activities, and the range of soil
1161 particle sizes expected to be present.
1162
1163 7. Provide 50-foot natural vegetated buffers around surface waters, and direct
1164 stormwater to vegetated areas where feasible. Where infeasible, alternate practices
1165 that remove or filter sediment and maximize stormwater infiltration may be approved
1166 by the County in accordance with State standards;
1167
1168 8. Sediment basins and traps, when used in accordance with the requirements of the
1169 Virginia Stormwater Management Handbook, shall incorporate an outlet structure
1170 that discharges from the surface (i.e., above the permanent pool or wet storage water
1171 surface elevation).
1172

1173 Reference: 9VAC25-880-70 Part II.B.2; 9VAC25-875-560
1174

- 1175 D. When the land-disturbing activity is part of a larger common plan of development, the
1176 ESC plan shall demonstrate compliance with the approved SWPPP for the larger
1177 common plan of development, and shall contain the following information and/or
1178 statements demonstrating compliance with the minimum standards of the erosion and
1179 sediment control regulations of the Board (9VAC25-875-560):
1180
1181 1. Compliance with the water quantity requirements of §62.1-44 et. seq. of the Code of
1182 Virginia shall be deemed to satisfy the requirements of 9VAC25-875-560(19)
1183 (Minimum Standard 19 of the Virginia Erosion and Stormwater Management
1184 Regulation);
1185
1186 2. The location, dimensions, and other information as required ensuring the proper
1187 construction and maintenance of all temporary erosion and sediment controls
1188 necessary to comply with the provisions of this chapter;
1189
1190 3. Calculations for sediment traps, basins, outlet protection, etc. as applicable;
1191

- 1192 4. A sequence of construction and clear delineation of the initial areas of land
1193 disturbance necessary for installation of the initial erosion and sediment control
1194 measures such as earthen dams, dikes, and diversions. The areas of initial land-
1195 disturbance shall be the minimum necessary for installation of the initial erosion and
1196 sediment control measures and the delineation should include all areas necessary for
1197 such installation, including stockpiles, borrow areas, and staging areas. The sequence
1198 should also include the stabilization of these areas immediately upon reaching final
1199 grade.
1200
- 1201 5. Clear delineation of the proposed areas of land disturbance and those areas to be
1202 protected from construction activity and traffic, including the following:
1203
- 1204 a. Minimize the disturbance of slopes 15% or greater; and
1205
1206 b. Minimize soil compaction and, unless infeasible, preserve topsoil.
1207
- 1208 6. Requirement that final stabilization of disturbed areas shall be initiated immediately
1209 upon reaching final grade on any portion of the site, and that temporary stabilization
1210 shall be initiated immediately upon areas that may not be at final grade but will
1211 remain dormant for longer than 14 days.
1212
- 1213 7. A comprehensive drainage plan including:
1214
- 1215 a. The existing and proposed drainage patterns on the site;
1216
1217 b. All contributing drainage areas to permanent stormwater practices and temporary
1218 sediment controls;
1219
1220 c. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and
1221 floodplains;
1222
1223 d. Land cover such as forest meadow, and other vegetative areas;
1224
1225 e. Current land use including existing structures, roads, and locations of known
1226 utilities and easements;
1227
1228 f. Sufficient information on adjoining parcels to assess the impacts of stormwater
1229 from the site on these parcels;
1230
1231 g. Proposed buildings, roads, parking areas, utilities, and stormwater management
1232 facilities; and
1233
1234 h. Proposed land use with tabulation of the percentage of surface area to be adapted
1235 to various uses, including but not limited to forest or reforestation, buffers,
1236 impervious cover, managed turf (lawns), and easements.
1237

- 1238 8. The location of any stormwater management practices and sequence of construction.
1239
1240 9. Temporary natural vegetated buffers in accordance with the requirements of the
1241 VESMP Construction General Permit. These buffers shall be delineated on the ESC
1242 Plan and protected with accepted signage, safety fence, or other barrier.
1243
- 1244 E. In lieu of the plan described in Subsections **A,B,** and **C** of this section, single-family
1245 residential construction that is not part of a larger common plan of development,
1246 including additions or modifications to an existing single-family detached residential
1247 structure, may execute an ESC Agreement in Lieu of an Erosion and Sediment Control
1248 Plan with the Administrator.
1249
- 1250 F. In lieu of the plan described in Subsections **A,B,** and **C** of this section, single-family
1251 residential construction that disturbs less than 1 acre and part of a larger common plan of
1252 development, may execute a SWPPP Template with the Administrator that demonstrates
1253 compliance with the practices and strategies identified for the lot or parcel in the larger
1254 common plan of development SWPPP.
1255
- 1256 G. Regarding the erosion and sediment control minimum standards as outlined in 9VAC25-
1257 875-560, the following more stringent changes are applied within the County:
1258
- 1259 1. Subsection 6b. Surface run-off from disturbed areas that are comprised of flow from
1260 drainage areas greater than or equal to three acres shall be controlled by a sediment
1261 basin. The minimum storage capacity of a sediment basin shall be 134 cubic yards per
1262 acre of drainage area. The outfall system shall, at a minimum, maintain the structural
1263 integrity of the basin during a 100-year-storm of twenty-four-hour duration. Runoff
1264 coefficients used in runoff calculations shall correspond to a bare earth condition or
1265 those expected to exist while the sediment basin is utilized.
1266
- 1267 2. Subsection 14, regulation of watercourse crossing - All applicable federal, state and
1268 local regulations pertaining to working in or crossing live watercourses shall be met.
1269 Prior to obtaining a land-disturbance permit, copies of all applicable environmental
1270 permits, including but not limited to wetland disturbance, stream crossing, stormwater
1271 discharge permits, shall be submitted with the application.
1272
- 1273 3. Subsection 17, vehicular sediment tracking - Where construction vehicle access
1274 routes intersect paved or public roads, provisions shall be made to minimize the
1275 transport of sediment by vehicular tracking onto paved or public road surface; the
1276 road surface shall be cleaned thoroughly at the end of each day. Sediment shall be
1277 removed from roads by shoveling or sweeping and transported to a sediment disposal
1278 area. Street washing shall be allowed only after sediment is removed in this manner.
1279 This provision shall apply to individual development lots as well as to larger land-
1280 disturbing activities.
1281
- 1282 4. In subdivisions, the owner/developer of the subdivision shall be responsible for
1283 compliance with the standard set forth in Subsection **G(3)** until the streets are taken

into the Virginia Department of Transportation's Secondary Road System for maintenance, and the plan submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto subdivision streets does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction. In addition, if individual lots or sections in a subdivision are being developed by a different owner, such owner shall be jointly and severally responsible with the owner/developer of the subdivision for achieving compliance with this minimum standard, and the erosion and sediment control plan, or "agreement in lieu of a plan," submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto the applicable roads does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction.

5. To assure proper stormwater drainage and site stabilization, the following policies are hereby adopted concerning all development. Prior to release of building permits, the following infrastructure shall be completed and stabilized within the subdivision, subsection or phase as shown on the approved plan:
 - a. Stormwater conveyance systems, including but not limited to culverts, road surface, curb and gutter, stormwater structures, drainage swales and ditches, channel linings and all cleared areas shall be stabilized, etc.
 - b. Submittal of a certified as-built plan of the subdivision, subsection or phase, which includes but is not limited to stormwater conveyance systems, curb and gutter, drainage swales and ditches, stormwater/sediment ponds, graded areas, etc. A letter from the engineer-of-record shall be included with the as-built plan which states that the subdivision has been constructed in accordance with the approved plan.
 - c. A proposed overall lot grading plan is required by Frederick County prior to the release of building permit(s) for subdivisions. This plan shall meet the intent of the original site plan submitted by the developer. It is required that the developer provide the builder/owner a copy of the original engineered site grading plan for the particular subdivision.
 - d. It will be necessary to submit a certified as-built survey for all lots on which proposed lot grading plans were required. This certified as-built survey shall indicate the following: properly annotated boundary lines; setback lines; house footprint; offsets to house; existing grading; spot shots as necessary to show positive drainage; spot shots at ten (10) foot intervals along all drainage swale with less than a 3% slope; actual driveway location; actual floor elevation to include basement, first floor and garage; and erosion and sediment controls, if required. The as-built plan shall be accompanied by a document prepared by a professional engineer or a certified land surveyor certifying that the as-built conditions meet the intent of the approved site grading plan. The certified as-built

1329 survey shall be submitted to the Public Works Department prior to release of the
1330 final certificate of occupancy.
1331

- 1332 6. Before adopting or revising this chapter, the County shall give due notice and conduct
1333 a public hearing on the proposed or revised regulations, except that a public hearing
1334 shall not be required when the County is amending its program to conform to
1335 revisions in the state program. However, a public hearing shall be held if the County
1336 proposes or revises regulations that are more stringent than the state program.
1337
- 1338 7. The program and regulations provided for in this chapter shall be made available for
1339 public inspection at the office of the Department of Public Works.
1340

1341 **§143-165 Stormwater management (SWM) plan requirements**
1342

- 1343 A. As required in **§143-150**, a stormwater management plan shall be developed and
1344 referenced into the SWPPP.
1345
- 1346 B. In addition to the plan requirements outlined in **§143-155** and **§143-160**, the stormwater
1347 management plan shall include the following:
1348
- 1349 1. A general description of the proposed stormwater management facilities, including:
1350
- 1351 a. Information on the type of and location of stormwater discharges, information on
1352 the features to which stormwater is being discharged including surface waters or
1353 karst features if present, and pre-development and post-development drainage
1354 areas.
1355
- 1356 b. Contact information including the name, address, telephone number, and email
1357 address of the owner and the tax map identification number and parcel number of
1358 the property or properties affected.
1359
- 1360 c. Narrative that includes a description of current site conditions and final site
1361 conditions or if allowed by the County, the information provided and documented
1362 during the review process that addresses the current and final site conditions.
1363
- 1364 d. A general description of the proposed stormwater management facilities and the
1365 mechanism through which the facilities will be operated and maintained after
1366 construction is complete.
1367
- 1368 e. Information on proposed stormwater management facilities, including
1369
- 1370 1) Detailed narrative on the conversion to a long-term stormwater
1371 management facility if the facility was used as a temporary ESC
1372 measure;
1373 2) The type of facilities
1374 3) Location, including geographic coordinates

- 1375 4) Acres treated
1376 5) The surface waters or karst features into which the facility will discharge
1377
1378 f. Hydrologic/hydraulic computations, including runoff characteristics.
1379
1380 g. Documentation/calculations verifying compliance with water quality and quantity
1381 requirements of this chapter.
1382
1383 h. Map or maps of site that depicts topography of the site and includes:
1384
1385 1) All contributing drainage areas.
1386
1387 2) Existing streams, ponds, culverts, ditches, wetlands, other water bodies,
1388 floodplains.
1389
1390 3) Soil types, geologic formations if karst features are present in the area,
1391 forest cover, other vegetative areas.
1392
1393 4) Current land use including existing structures, roads, locations of known
1394 utilities and easements.
1395
1396 5) Sufficient information on adjoining parcels to assess impacts of
1397 stormwater from the site on these parcels.
1398
1399 6) Limits of clearing and grading, proposed drainage patterns on the site.
1400
1401 7) Proposed buildings, roads, parking areas, utilities, stormwater
1402 management facilities.
1403
1404 8) Proposed land use with tabulation of percentage of surface area to be
1405 adapted to various uses, including planned locations of utilities, roads and
1406 easements.
1407
1408 i. A stormwater management plan for a land-disturbing activity shall apply the
1409 stormwater management technical criteria to the part to the entire land-disturbing
1410 activity. Individual lots in new residential, commercial, or industrial
1411 developments shall not be considered separate land-disturbing activities.
1412
1413 j. A stormwater management plan shall consider all sources of surface runoff and all
1414 sources of subsurface and groundwater flows converted to surface runoff.
1415

1416 Reference: 9VAC25-875-510
1417

- 1418 2. All necessary documentation and calculations supporting the design and construction
1419 of the proposed stormwater management structures, including sufficient details such
1420 as cross sections, profiles, dimensions, grades, and other information as needed to

- 1421 ensure that the BMPs are built in accordance with the approved plans and the BMP
1422 Design Specifications of the Virginia Stormwater Management Handbook.
1423
- 1424 3. Runoff Reduction Method compliance spreadsheet summary sheet.
1425
- 1426 4. A landscaping plan prepared by an individual familiar with the selection of
1427 appropriate vegetation for the particular BMP (emergent and upland vegetation for
1428 wetlands, woody and/or herbaceous vegetative stabilization and management
1429 techniques to be used within and adjacent to the stormwater management facilities,
1430 etc.). The landscaping plan must also describe the maintenance of vegetation at the
1431 site and what practices should be employed to ensure that adequate vegetative cover
1432 is preserved.
1433
- 1434 5. Identification of all easements provided for inspection and maintenance of stormwater
1435 management facilities in accordance with specifications in the Virginia Stormwater
1436 Management Handbook and the County requirements.
1437
- 1438 6. When applicable, a copy of the Frederick County SWM BMP operation and
1439 maintenance agreement to be recorded in the local land records prior to plan approval.
1440
- 1441 7. When stormwater facilities are proposed on individual residential lots, a copy of the
1442 proposed residential lot BMP inspection and maintenance agreement to be signed by
1443 the property owner upon settlement. This must be submitted prior to plan approval.
1444
- 1445 8. If an operator intends to meet the requirements established in 9VAC25-875-580 or
1446 9VAC25-875-600 through the use of offsite compliance options, where applicable,
1447 then a letter of availability from the offsite provider must be included
1448
- 1449 C. Stormwater management (SWM) plans shall demonstrate compliance with the following:
1450
- 1451 1. Stormwater runoff quality and runoff volume reduction criteria for new development.
1452
1453 Reference: 9VAC25-875-580
1454
- 1455 2. Stormwater runoff quality criteria for development on prior developed lands.
1456
1457 Reference: 9VAC25-875-580
1458
- 1459 3. Channel protection criteria.
1460
1461 Reference: 9VAC25-875-600
1462
- 1463 4. Flood protection criteria.
1464
1465 Reference: 9VAC25-875-600
1466

- 1467 5. Requirements for identifying, evaluating, and addressing increased volumes of sheet
1468 flow resulting from pervious or disconnected impervious areas or from physical
1469 spreading of concentrated flow through level spreaders.
1470

1471 Reference: 9VAC25-875-600
1472

- 1473 D. Prior to release of the stormwater plan surety bond, two sets of the construction record
1474 drawing or as-built of permanent stormwater management facilities, also referred to as
1475 “as-built plans,” in accordance with County requirements shall be submitted to the
1476 Administrator. The construction record drawing shall be appropriately sealed and signed
1477 by a professional registered in the State pursuant to Article 1 (§54.1-400 et seq.) of
1478 Chapter 4 of Title 54.1. of the Code of Virginia. The record drawing shall contain a
1479 statement signed by a professional registered in the Commonwealth of Virginia pursuant
1480 to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia, stating that to the
1481 best of the professional's knowledge, the construction record drawing shows all
1482 adjustments and revisions to the stormwater management plan made during construction
1483 and serve as a permanent record of the actual location of all constructed elements.
1484

1485 Reference: 9VAC25-875-535
1486

- 1487 E. Single family residential construction that is less than one acre of disturbance and part of
1488 a larger common plan of development may execute and implement a BMP
1489 Implementation Plan as part of the SWPPP Template to demonstrate compliance with the
1490 practices and strategies identified in the larger common plan of development SWPPP.
1491
- 1492 F. Stormwater management facility maintenance agreements. Maintenance of all stormwater
1493 management facilities shall be ensured through the creation of a formal maintenance
1494 agreement that must be approved by the Administrator and recorded in the land record
1495 prior to issuance of a permit and contain the following provisions:
1496

- 1497 1. A copy of the County BMP operation and maintenance agreement proposed for
1498 recordation in the local land records prior to plan approval to be signed by the
1499 property owner upon settlement shall be submitted with the plans.
1500

1501 Reference: 9VAC25-875-535.
1502

- 1503 2. Responsibility for the operation and maintenance of stormwater management
1504 facilities shall remain with the property owner or an owner's association and shall
1505 pass to any successor or owner. If portions of the land are to be sold, legally binding
1506 arrangements shall be made to pass the responsibility to successors in title.
1507

1508 Reference: 9VAC25-875-535.
1509

- 1510 3. Maintenance agreements shall be in accordance with the County requirements (BMP
1511 Inspection and Maintenance Program) and provide for all necessary access for
1512 inspections.

Reference: §62.1-44.15:39; 9VAC25-875-535.

4. Except as provided in Subsection **F(5)** below, maintenance agreements shall be enforceable (by the Administrator).

Reference: 9VAC25-875-535.

5. Individual on-lot stormwater facilities that are designed to primarily manage the runoff from the individual residential lot on which they are located require a County residential lot BMP inspection and maintenance agreement acknowledging the presence, purpose, location, and basic maintenance requirements for the particular BMPs in accordance with County requirements.

Reference: 9VAC25-875-535

6. 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 State pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
7. Stormwater management plans for residential, commercial or industrial subdivisions are approved and govern the development of individual parcels within that plan, throughout the development life even if ownership changes.

Reference: §62.1-44.15:28.7

§143-175 Pollution prevention plan (PPP)

- A. A pollution prevention plan (PPP) is required for all VESMP Activities as required in **§143-125**, and shall be developed for incorporation into the SWPPP.
- B. The PPP shall be developed in accordance with the Virginia Stormwater Management Handbook to minimize the discharge of pollutants and the exposure of materials to stormwater, and prohibit illicit discharges from construction activities.
- C. The PPP shall be implemented and updated as outlined in **§143-205.C** and the Virginia Stormwater Management Handbook as necessary throughout all phases of the land-disturbing activity to implement appropriate pollution prevention measures applicable to construction activities.

Reference: 9VAC25-875-520

§143-180 Prohibitions Illicit Discharges

- 1558 A. It shall be unlawful for any person not specifically authorized by the Administrator to do
1559 so, to remove a manhole cover or catch basin or grate inlet cover or to make any
1560 connections with, or any opening into, use, alter, disturb, or otherwise interfere with any
1561 manhole, catch basin, grate, inlet or other structure which is a part of the public storm
1562 drainage system.
- 1563 B. It shall be unlawful for any person to deposit into any open watercourse or gutter or pipe
1564 or other drainage structure, any rocks, logs, dirt, paper, branches, leaves, grass or any
1565 other material capable of causing a stoppage or disrupting the flow of storm or rainwater
1566 or otherwise adversely affecting the hydraulic capacity of the watercourse or drainage
1567 structure.
- 1568 C. It shall be unlawful to cause or allow illicit discharges to the storm drainage system or to
1569 state waters. Subject to the provisions of paragraph (d) below, activities shall not be
1570 considered illicit discharge as outlined in 9VAC25-890-20.
- 1571 D. The prohibition in (c) above shall not apply to any non-stormwater discharge permitted
1572 under a VPDES or VESMP permit or waiver, provided that the discharge is in full
1573 compliance with all requirements of the VPDES or VESMP permit as well as any other
1574 applicable laws or regulations pertaining to the discharge.
- 1575 E. It shall be unlawful to connect, or cause or allow to be connected, to the storm drainage
1576 system or state waters, without a VPDES or VESMP permit, any structure that conveys
1577 any liquid other than stormwater or discharges listed in paragraph (c) of this section,
1578 including but not limited to pipes, drains, sanitary sewer lines, washing machine drains,
1579 or floor drains. This prohibition expressly includes, without limitation, illicit connections
1580 made in the past, regardless of whether the connection was permissible under law or
1581 practices applicable or prevailing at the time of the connection.
- 1582 F. If any activity listed in paragraph (c) of this section is found by the Administrator to be a
1583 source of pollution to state waters, the discharge shall be considered illicit, and the
1584 Administrator shall serve a written notice in accordance with this section.
- 1585 G. The Administrator shall have the authority to inspect and monitor discharges and sources
1586 of potential discharge to the storm drainage system to ensure compliance with this article,
1587 including the authority to enter upon private property to inspect or monitor such
1588 discharges or sources of potential discharge. The Administrator shall also have the
1589 authority to initiate enforcement action in accordance with section 143.225.B.

1590
1591 Reference: 9VAC25-890-20

1592 1593 **§143-185 Review and approval of plans**

- 1594
- 1595 A. Upon receipt of a plan for a permit and accompanying plans as required by §143-150, the
1596 Administrator shall determine the completeness of the application and notify the
1597 applicant within 15 calendar days if the submittal is considered incomplete.
- 1598
- 1599 B. Once the applicant has been notified of a complete submittal, the Administrator shall
1600 have an additional 60 calendar days from the date of the communication for the review of
1601 the plans to determine compliance with the requirements of this ordinance, and to
1602 communicate to the applicant the approval or disapproval of the plans.
- 1603

- 1604 C. If the plans are not approved, the reasons for not approving the plans shall be provided in
1605 writing to the applicant.
1606
- 1607 D. The Administrator shall review within 45 calendar days of the date of resubmission any
1608 plans that been previously disapproved.
1609
- 1610 E. Unless otherwise indicated in the application, electronic communication shall be
1611 considered communication in writing.
1612

1613 Reference: §62.1-44.15:55B; §62.1-44.15:34A; 9VAC25-875-110
1614

1615 **§143-190 Preconstruction meeting required**
1616

1617 No land disturbing activities shall commence until a preconstruction meeting between the
1618 Administrator and the applicant, and the individual responsible for carrying out the plan has been
1619 conducted. The applicant shall notify the Administrator in advance to schedule the meeting on-
1620 site.
1621

1622 **§143-195 Issuance, time limit, modification, maintenance, transfer and/or termination of**
1623 **Frederick County permit and the VESMP Authority Permit**
1624

- 1625 A. Permit issuance. Once the requirements for obtaining a County land-disturbing permit
1626 and coverage under the state general permit for discharges from construction activity (if
1627 applicable) have been met, including the receipt or verification of payment of all required
1628 permit fees in accordance with the fee schedule of §143-235, the Administrator will issue
1629 a Frederick County land disturbance permit and a VESMP Authority permit. Prior to the
1630 initiation of an application, by the owner of the subject property, the owner's agent, or
1631 any entity in which the owner holds an ownership interest greater than 50%, for a permit
1632 under this chapter, all delinquent real estate taxes and any other charges that constitute a
1633 lien on the subject property that are owed to the County and have been properly assessed
1634 against the subject property must be paid, unless otherwise authorized by the Treasurer.
1635
- 1636 B. No transfer, assignment, or sale of the rights granted by virtue of a County land-
1637 disturbing permit shall be made unless a written notice of transfer and corresponding
1638 permit modification fee is filed with the Administrator and the transferee certifies
1639 agreement to comply with all obligations and conditions of the permit. The Administrator
1640 may require modification or revocation and reissuance of the VESMP authority permit to
1641 change the name of the permittee and incorporate such other requirements as may be
1642 necessary for the transfer.
1643
- 1644 C. If land-disturbing activity has not commenced within 180 days of land-disturbing activity
1645 or VESMP authority permit issuance or ceases for more than 180 days, the Administrator
1646 may evaluate the existing approved ESC plan to determine whether the plan still satisfies
1647 local and state erosion and sediment control criteria and to verify that all design factors
1648 are still valid. If the previously filed ESC plan is determined to be inadequate a modified
1649 plan shall be submitted and approved prior to the resumption of land-disturbing activity.

Reference: 9VAC25-875-240

- D. VESMP Authority Permits are effective for a fixed permit cycle of 5 years. Activities requiring a VESMP permit may obtain coverage at any time during the 5-year permit cycle and must be renewed if the permit has not been terminated prior to the end of the cycle. The annual permit maintenance fees in §143-235 apply until the permit coverage is terminated or renewed.
- E. Land-disturbing activities for which VESMP Permit coverage was issued between July 1, 2014 and June 30, 2019 permit cycle may remain subject to the technical criteria of Part II B of the Virginia Stormwater Regulations for two additional permit cycles provided coverage under the original VESMP Permit is maintained. After two permit cycles have passed, or should the original VESMP Permit coverage not be maintained, portions of the project not under construction shall become subject to any new technical criteria adopted by the VESMP Authority after the original VESMP Permit coverage was issued.
- F. Land-disturbing activities for which VESMP Permit coverage was issued between July 1, 2014 and June 30, 2019 permit cycle may elect to modify the permit by paying the appropriate permit modification fee and request approval for compliance with the technical criteria of Part II B for any remaining portions of the project.

Reference: §62.1-44.15:24; 9VAC25-875-480.

§143-200 Variances/exceptions

- A. Frederick County may grant exceptions or modify the ESC requirements of activities if they are deemed inappropriate or too restrictive for site conditions by granting a variance. A variance may be granted under the following conditions:
 - 1. At the time of plan submission, an applicant may request a variance from the requirements of an erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed shall be documented in the plan.
 - 2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the Administrator. The Administrator shall respond in writing either approving or disapproving such a request. If the Administrator does not approve a variance within 10 days of receipt of the request, the request shall be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
 - 3. The Administrator shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.

- 1696 B. The Administrator may grant exceptions to the Technical Criteria of **§143-165**,
1697 Stormwater management (SWM) plan requirements. An exception may be granted,
1698 provided that:
1699
- 1700 1. The exception is the minimum necessary to afford relief;
1701
 - 1702 2. Reasonable and appropriate conditions shall be imposed as necessary upon any
1703 exception granted so that the intent of the VESMA and this chapter is preserved;
1704
 - 1705 3. Granting the exception will not confer any special privileges that are denied in other
1706 similar circumstances;
1707
 - 1708 4. Exception requests are not based upon conditions or circumstances that are self-
1709 imposed or self-created; and
1710
 - 1711 5. Economic hardship alone is not sufficient reason to grant an exception from these
1712 requirements.
1713
- 1714 C. Under no circumstance shall an exception to the requirement that the land-disturbing
1715 activity obtain required VESMP permits be granted, nor shall the use of a BMP not found
1716 through the Virginia Stormwater BMP Clearinghouse be approved.
1717
- 1718 D. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite
1719 options available as described in **§143-165B(8)** have been considered and found not
1720 available.
1721
- 1722 E. A record of all exceptions granted shall be maintained by the County in accordance with
1723 9VAC25-875-180
1724

1725 Reference: 9VAC25-875-170; 9VAC25-875-180
1726

1727 **§143-205 Amendments to approved plans**
1728

- 1729 A. The County may require changes to an approved erosion and sediment control plan
1730 and/or stormwater management plan in the following cases:
1731
- 1732 1. Where inspection has revealed that the plan is inadequate to satisfy applicable
1733 regulations; or
1734
 - 1735 2. Where the owner finds that because of changed circumstances or for other reasons the
1736 plan cannot be effectively carried out, and proposed amendments to the plan
1737 consistent with the requirements of the Act are agreed to by the VESMP authority and
1738 the owner
1739

1740 Reference: 9VAC25-875-110
1741

B. Amendments to an approved SWPPP may be required in order to reflect changes in the implementation of an approved ESC or SWM Plan. In addition to the requirements of Subsection A of this section, the site operator shall document the implementation of the provisions of the SWPPP as follows:

1. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance that may have a significant effect on the discharge of pollutants from the construction activity and that has not been previously addressed in the SWPPP.
2. The SWPPP must be amended if during inspections or investigations by the operator's qualified personnel, or by the Administrator, state or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in stormwater discharges from the construction site.
3. Revisions to the SWPPP shall include additional or modified control measures designed and implemented to correct problems identified. If approval by the Administrator is necessary for the control measure, revisions to the SWPPP shall be completed no later than five business days following approval. Implementation of these additional or modified control measures shall be accomplished as described in Part II H of the general permit.
4. Amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K 2 of the general permit and shall include the required certification in accordance with Part III K 4 of the general permit. Changes to any component of an approved SWPPP with VESMP Permit coverage that result in changes to stormwater management plans or require additional review by the Administrator shall be subject to permit modification fees set out in §143-235.

Reference: 9VAC25-880-70 Part II C. General permit.

§143-210 Monitoring and inspections during activities

A. Erosion and sediment control

1. The responsible land disturber, as provided by §62.1-44.15:52, shall oversee and is responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The County may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
2. The County shall periodically inspect the land-disturbing activity in accordance with 9VAC25-875-140 of the Virginia Erosion and Stormwater Management Regulation

to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The application for a permit shall include a provision for appropriate agents and employees of the County, at reasonable times, to go upon the property on which permission has been sought to conduct land-disturbing activities and to monitor such activities. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

- a. If the Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, by electronic mail to the address specified in the permit application, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.
- b. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this chapter.

Reference: § 62.1-44.15:37; § 62.1-44.15:58

3. Upon issuance of an inspection report denoting a violation of Code of Virginia §62.1-44.15:55, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the Administrator may issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven days from the date of service pending application by the owner or permit holder for appropriate relief to the Circuit Court of the County. Said order shall be posted on the site where the disturbance is occurring and shall remain in effect until permits and plan approvals are secured.

The owner may appeal the issuance of an order to the Circuit Court of the County.

Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court of the County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the Administrator from taking any other action authorized by this chapter.

Reference: § 62.1-44.15:37; § 62.1-44.15:58

B. Stormwater

1. The VESMP Authority will inspect all regulated activities to ensure compliance with the approved ESC Plan in accordance with the County and state requirements. The owner, permittee or person responsible for carrying out the plan or agreement may be given notice of the inspection.

Reference §62.1-44.15:58.

2. The County requires that stormwater management facilities be inspected, and the construction of such facilities are certified in accordance with Subsection **B(4)** of **§143-210**. The VESMP Authority may also inspect the construction of permanent stormwater management facilities at critical stages of construction and in accordance with the Virginia BMP Design Specifications to ensure compliance with the approved plans.

Reference §62.1-44.15:37.

3. The right-of-entry for the VESMP Authority to conduct such inspections shall be expressly reserved in the permit. The permit holder, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.

Reference §62.1-44.15:39, Right of entry

4. The County will accept the submittal of inspection reports certifying that the stormwater management facilities are being constructed in accordance with the approved plan conducted by:

- 1880 a) A person who is licensed as a professional engineer, architect, landscape
1881 architect, or land surveyor pursuant to Article 1 (§54.1-400 et seq.) of Chapter
1882 4 of Title 54.1 of the Code of Virginia;
1883
1884 b) A person who works under the direction and oversight of the licensed
1885 professional engineer, architect, landscape architect, or land surveyor; or
1886
1887 c) A person who holds a certificate of competence in stormwater inspection from
1888 the Board.
1889

1890 Reference: 9VAC25-875-140
1891

- 1892 5. The VESMP Authority will inspect all regulated activities covered by a VESMP
1893 authority permit to ensure the operator is conducting and documenting the operator
1894 inspections as required by the County and is appropriately updating the PPP as
1895 required by the County. The owner, permittee or person responsible for carrying out
1896 the plan or agreement may be given notice of the inspection.
1897

1898 Reference: Subsection **B(1), (2), and (3)** above: 9VAC25-875-140
1899

- 1900 6. All activities covered by a VESMP Permit shall be inspected by the operator in
1901 accordance with the requirements of the County. The operator shall maintain records
1902 of inspections and maintenance to determine whether the measures required in the
1903 ESC plan are effective in controlling erosion and sedimentation and to ensure
1904 compliance with the approved plan. Records shall be made available to the
1905 Administrator or the County inspector upon request.
1906

1907 Reference: 9VAC25-880-70
1908

- 1909 7. Prior to the release of any performance bonds or termination of the VESMP Authority
1910 Permit, the applicant shall submit the required as-built drawings for the stormwater
1911 management facilities. The site shall be surveyed to determine actual field
1912 conditions, and the approved plans as annotated to reflect actual field conditions shall
1913 constitute the as-built drawing. As-built drawings shall include the following:
1914 a. Storm sewer systems.
1915 1) The general location of all drainage structures.
1916 2) The storm structure top and all pipe invert elevations including end
1917 sections.
1918 3) Storm pipe size, material and percent grade between inverts from
1919 structure to structure.
1920 4) Spot elevations of the invert of all man-made ditches at fifty-foot
1921 intervals.
1922 5) Extent of all riprap outfall protection.
1923 b. Topographic survey of all constructed SWM/BMP facilities.

- 1924 c. The location, size and/or material of all required BMP elements including but not
1925 limited to cleanouts, observation wells, overflow structures, gravel diaphragms,
1926 and flow spreaders.
1927 d. Confirmation of the volume provided in all ponds and water quality
1928 structures. Deviations from the approved plans shall require new routings to
1929 confirm that the ponds will function as designed.
1930 e. For residential projects, topographic survey of all disturbed common space areas
1931 to confirm that all slopes and swales are properly placed and that all drainage
1932 patterns have been established in accordance with the grading plan.
1933 f. Detailed records of any variations of the work from the approved plans.
1934

1935 Reference: 9VAC25-875-535
1936

1937 8. Reports; recordkeeping
1938

- 1939 a) On a fiscal year basis (July 1 to June 30), the County shall report to the
1940 Department by October 1 of each year in a format provided by the
1941 Department. The information to be provided shall include the following:
1942

- 1943 1. Information on each permanent stormwater management facility
1944 completed during the fiscal year to include type of stormwater
1945 management facility, geographic coordinates, acres treated, and the
1946 surface waters or karst features into which the stormwater
1947 management facility will discharge;
1948
1949 2. Number and type of enforcement actions during the fiscal year; and
1950
1951 3. Number of exceptions granted during the fiscal year.
1952

- 1953 b) A VESMP authority shall keep records in accordance with the following:
1954

- 1955 1. Project records, including approved stormwater management plans, shall
1956 be kept for three years after state permit termination or project
1957 completion.
1958
1959 2. Stormwater management facility inspection records shall be documented
1960 and retained for at least five years from the date of inspection.
1961
1962 3. Construction record drawings shall be maintained in perpetuity or until a
1963 stormwater management facility is removed.
1964
1965 4. All registration statements submitted in accordance with 9VAC25-875-
1966 530 shall be documented and retained for at least three years from the
1967 date of project completion or state permit termination.
1968

1969 Reference: 9VAC25-875-180

1970
1971 **§143-215 Monitoring and inspections of permanent stormwater management facilities**
1972

1973 A. Owners of stormwater management facilities shall be responsible for conducting
1974 inspections and performing maintenance in accordance with the recorded stormwater
1975 BMP maintenance agreement as described in **§143-165** and in accordance with County
1976 requirements. Regarding individual residential lots, such recorded instruments need not
1977 be required for stormwater management facilities designed to treat stormwater runoff
1978 primarily from an individual residential lot on which they are located, provided it is
1979 demonstrated to the satisfaction of the Administrator that future maintenance of such
1980 facilities will be addressed through an enforceable mechanism at the discretion of the
1981 Administrator. Provisions for this are addressed in the Virginia Stormwater Management
1982 Handbook.

1983
1984 B. If a recorded instrument is not required pursuant to section **§143-215.A**, the
1985 Administrator shall develop a strategy for addressing maintenance of stormwater
1986 management facilities designed to treat stormwater runoff primarily from an individual
1987 residential lot on which they are located. Such a strategy may include periodic
1988 inspections, homeowner outreach and education, or other methods targeted at promoting
1989 the long-term maintenance of such facilities. Such facilities shall not be subject to the
1990 requirement for an inspection to be conducted by the Administrator.

1991
1992 Reference: 9VAC25-875-130; 9VAC25-875-140
1993

1994 C. The Administrator will ensure that permanent stormwater management facilities are
1995 being adequately maintained as designed after completion of land-disturbing activities
1996 according to the following:

- 1997
- 1998 1. The Administrator shall track the five-year frequency comprehensive inspection
1999 report submittals as required by the recorded maintenance agreement and in
2000 accordance with County requirements. The Administrator or the Administrator's
2001 designee, not to include the owner, except as described below, shall conduct
2002 maintenance inspections at a minimum of once every 5 years for certain BMPs as
2003 defined by County requirements.
 - 2004
2005 2. The Administrator may utilize the inspection reports of the owner of a stormwater
2006 management facility as part of an inspection program established in subsection A of
2007 this section if the inspection is conducted by a person who is licensed as a
2008 professional engineer, architect, landscape architect, or land surveyor pursuant to
2009 Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the code of Virginia; a
2010 person who works under the direction and oversight of the licensed professional
2011 engineer, architect, landscape architect, or land surveyor; or a person who holds an
2012 appropriate certificate of competence from the department.
2013

- 2014 3. The right-of-entry for the Administrator to conduct such inspections shall be
2015 expressly reserved in the maintenance agreements. The owner, or his duly designated
2016 representative, shall be afforded the opportunity to accompany the inspectors.
2017

2018 References: 9VAC25-875-140; § 62.1-44.15:39
2019

- 2020 D. The Administrator shall notify the property owner or owner's association in writing in
2021 accordance with **§143-225B(1)** to the address as identified in the SWM BMP Inspection
2022 and Maintenance Agreement when a determination has been made that the stormwater
2023 management facility is in disrepair or is not functioning as intended. The notice shall
2024 specify the measures needed to comply with the approved maintenance plan and shall
2025 specify the time within which such measures shall be completed. If the responsible party
2026 fails to perform such maintenance and repair, the County shall have the authority to
2027 initiate enforcement action in accordance with **§143-225B(6)** and perform the work and
2028 recover the costs from the responsible party.
2029

2030 **§143-225 Enforcement; violations and penalties**

2031

2032 A. Erosion and sediment control.

2033

- 2034 1. Violators of this chapter shall be guilty of a Class I misdemeanor.
2035
2036 2. Any person who violates any provision of Va. Code §§ 62.1-44.15:34, 62.1-44.15:55
2037 may, upon a finding of the District Court of the County, be assessed a civil penalty.
2038 The civil penalty for any one violation shall be not less than \$100 nor more than
2039 \$1,000, except that the civil penalty for commencement of land-disturbing activities
2040 without an approved plan shall be \$1,000. Each day during which the violation is
2041 found to have existed shall constitute a separate offense. In no event shall a series of
2042 specified violations arising from the same operative set of facts result in civil
2043 penalties which exceed a total of \$10,000, except that a series of violations arising
2044 from the commencement of land-disturbing activities without an approved plan for
2045 any site shall not result in civil penalties which exceed a total of \$10,000. Any such
2046 civil penalties shall be in lieu of criminal sanctions and shall preclude the prosecution
2047 of such violation as a misdemeanor under Subsection A of §62.1-44.15:63.
2048
2049 3. The Administrator the owner or property which has sustained damage, or which is in
2050 imminent danger of being damaged, may apply to the Circuit Court of the County to
2051 enjoin a violation or a threatened violation of Va. Code §§ 62.1-44.15:34, 62.1-
2052 44.15:55, without the necessity of showing that an adequate remedy at law does not
2053 exist.
2054

2055 However, an owner of property shall not apply for injunctive relief unless (i) he has
2056 notified in writing the person who has violated the local program, and the program
2057 authority, that a violation of the local program has caused, or creates a probability of
2058 causing, damage to his property, and (ii) neither the person who has violated the local
2059 program nor the program authority has taken corrective action within fifteen days to

eliminate the conditions which have caused, or create the probability of causing, damage to his property.

4. In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to the County in a civil action for damages.
 5. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the County.
- Any civil penalties assessed by a court shall be paid into the treasury of the County, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.
6. With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or condition of a permit or any provision of this ordinance, or order of the VESCP authority the County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under this section.
 7. The Commonwealth's Attorney shall, upon request of the County, take legal action to enforce the provisions of this chapter.
 8. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

B. Stormwater.

1. If the Administrator determines that there is a failure to comply with the conditions of this ordinance or determines there is an unauthorized discharge or if during inspections at any stage of the land-disturbing activity, the Administrator determines that the operator has failed to comply with the approved plan, including but not limited to failure to install or properly install stormwater BMPs or erosion and sediment controls, the Administrator shall serve a Notice to Comply upon the permittee or person responsible for carrying out the permit conditions as follows:

- a) Certified mail return receipt requested sent to the address specified by the owner or permittee in his application or plan certification; or

- b) Electronic mail to the address specified in the permit application; or
- c) Delivery at the site of the activities to the agent or employee supervising such activities.
2. The notice shall specify the measures necessary to comply with the plan or agreement in lieu of a plan and shall specify the time within which such measures shall be completed.
3. Stop Work Order.
- a) If a permittee fails to comply with a notice to comply issued in accordance with Subsection **B (1)** within the time specified, the Administrator may issue an order requiring the owner, permittee, or person responsible for carrying out the approved plan, to cease all land-disturbing activities until the violation of the permit has ceased or the specified corrective actions have been taken. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the registration statement, by electronic mail to the address specified in the permit application, or by personal delivery by an agent of the VESMP authority or Department.
- b) In addition to the cessation of all activities as described in Subsection **B(3)(a)** above, the permittee may also be subject to having the VESMP Authority permit revoked; and furthermore, he shall be deemed to be in violation of this ordinance and, upon conviction, shall be subject to the penalties as provided in the Code of Virginia or by this chapter.
- c) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in surface waters within the watersheds of the state, or where the activities have commenced without an approved plan, agreement in lieu of a plan or any required permits, such an order may be issued without regard to whether the owner or permittee has been issued a notice to comply.
4. If, at any stage of the activity, the VESMP Authority determines that the physical conditions on the site are not as stated or shown on the approved erosion and sediment control plan or stormwater management plan, or the County determines that the storm drainage system or stormwater management facility is inadequate or not constructed as shown on the approved stormwater management final plan, the VESMP Authority may refuse to approve further work and the County may revoke existing permits or approvals until a revised stormwater management final plan has been submitted and approved.
5. Commencing activities without an approved plan or a permit.

- 2151 a. If activities have commenced without an approved plan, agreement in lieu of a
2152 plan, or a VESMP Authority Permit where required, a stop-work order may be
2153 issued requiring that all activities be stopped until an approved plan, an
2154 agreement in lieu of a plan or any required permits are obtained.
2155
- 2156 b. The stop-work order shall remain in effect for a period of seven calendar days
2157 from the date of service pending application by the Administrator or alleged
2158 violator for appropriate relief to the Circuit Court of the jurisdiction wherein
2159 the violation is alleged to have occurred. If the alleged violator has not
2160 obtained an approved plan, agreement in lieu of a plan or any required permits
2161 within seven days from the date of service of the order, the Director may issue
2162 an order to the owner requiring that all construction and other work on the
2163 site, other than corrective measures, be stopped until an approved plan,
2164 agreement in lieu of a plan or any required permits have been obtained. The
2165 order shall be served upon the owner by registered or certified mail to the
2166 address specified in the permit application or the land records of the County or
2167 by electronic mail to the address specified in the permit application.
2168
- 2169 c. The owner may appeal the issuance of an order to the Circuit Court.
2170
- 2171 6. Maintenance of permanent stormwater facilities.
2172
- 2173 a. If during periodic inspections to ensure that stormwater management facilities
2174 are being adequately maintained as designed, the VESMP authority identifies
2175 operational deficiencies and/or determines that the owner of the stormwater
2176 management facility has failed to perform maintenance or conduct
2177 maintenance inspections in accordance with the recorded SWM BMP
2178 maintenance and inspection agreement, the VESMP Authority shall notify the
2179 person or organization responsible for carrying out the requirements of the
2180 agreement. The notice shall specify the deficiencies, the corrective actions
2181 required to restore the facility, and the time frame within which the corrective
2182 actions shall be completed.
2183
- 2184 b. If the individual or organization fails to comply with the notice within the
2185 time specified, the VESMP Authority may initiate informal and/or formal
2186 administrative enforcement procedures including but not limited to directives
2187 issued by the Board in accordance with §62.1-44.15:25, or civil penalties in
2188 accordance with this chapter and §62.1-44.15:48.
2189
- 2190 7. Any person violating or failing, neglecting, or refusing to obey any rule,
2191 regulation, ordinance, order, approved standard or specification, or any permit
2192 condition issued by the VESMP authority or any provisions of this chapter may
2193 be compelled in a proceeding instituted in any appropriate court by the VESMP
2194 authority to obey same and to comply therewith by injunction, mandamus, or
2195 other appropriate remedy. Nothing in this section shall prevent the VESMP
2196 authority from taking additional enforcement action permitted by state law.

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8. Any person who violates any provision of this chapter or of any regulations or ordinances, or standards and specifications adopted or approved hereunder, including those adopted pursuant to a VESMP permit, or who fails, neglects, or refuses to comply with any order of the VESMP authority, the Department, the 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:
 - 1) No permit registration;
 - 2) No SWPPP;
 - 3) Incomplete SWPPP;
 - 4) SWPPP not available for review;
 - 5) Failure to install stormwater BMP or erosion and sediment controls;
 - 6) Stormwater BMPs improperly installed or maintained;
 - 7) Operational deficiencies;
 - 8) Failure to conduct required inspections;
 - 9) Incomplete, improper, or missed inspections;
 - 10) Discharges not in compliance with the requirements of the VESMP construction general permit; and
 - 11) No approved erosion and sediment control plan.
 - b. The Administrator 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 the economic benefit to the violator from noncompliance.
 - d. Any civil penalties assessed by a court because of a summons issued by the County shall be paid into the treasury of the County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of

the County and abating environmental pollution therein in such manner as the court may, by order, direct.

9. 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 County 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.

References: § 62.1-44.15:37; § 62.1-44.15:48; § 62.1-44.15:63; § 62.1-44.15:64

§143-230 Hearings

- A. Any permit applicant, permittee, or person subject to the Frederick County land-disturbing permit, VESMP authority permit, or state permit requirements under this article aggrieved by any action of the Department of Public Works taken without a formal hearing, or by inaction of the Department of Public Works may demand in writing a formal hearing by the County Board of Supervisors, provided a petition requesting such hearing is filed with the Board of Supervisors within 30 days after notice of such action. Any hearings conducted by the Board of Supervisors shall be in accordance with §62.1-44.26 of the Code of Virginia. Hearings must be conducted by the Board of Supervisors at a regular or special meeting. In reviewing the agent's actions, the County Board of Supervisors shall consider evidence and opinions, and the County Board of Supervisors may affirm, reverse or modify the action. Verbatim record of proceedings must be taken and filed with the County Board of Supervisors. The County Board of Supervisors decision shall be final, subject only to review by the Circuit Court of the County.

Reference: 9VAC25-875-160

§143-232 Appeals

- A. Any permittee or party aggrieved by a state permit or enforcement decision of the Frederick County Public Works under this article, or any person who has participated, in person or by submittal of written comments, in the public comment process related to a final decision of the Department of Public Works or Board of Supervisors under this chapter, whether such decision is affirmative or negative, is entitled to judicial review thereof in accordance with the provisions of the Administrative Process Act (§2.2-4000 et seq.) if such person meets the standard for obtaining judicial review of a case or controversy pursuant to Article III of the Constitution of the United States. Final decisions shall be subject to review and appeal to the Circuit Court of the County, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in the land disturbance activity occurs or is proposed to occur. Unless otherwise provided by law, the Circuit Court shall conduct such review in accordance with the standards

established in § 2.2-4027, and the decisions of the Circuit Court shall be subject to review by the Court of Appeals. A person shall be deemed to meet such standard if:

- 1) Such person has suffered an actual or imminent injury that is an invasion of a legally protected interest and that is concrete and particularized;
- 2) Such injury is traceable to the decision of the Department or the Board and not the result of the independent action of some third party not before the court; and
- 3) Such injury will likely be redressed by a favorable decision by the court.

Reference: §62.1-44.15:46.

§143-235 Fees

- A. The Board of Supervisors, by resolution, may establish a schedule of fees for the application, modification, transfer and maintenance of stormwater/erosion and sediment control permits and plans.
- B. The fee for the Frederick County Permit and fees for coverage under the VESMP Authority Permit shall be imposed in accordance with Table 1. When a site or sites have been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1.

Reference: Part VIII of the VESMP Regulation

Table 1: Fees for coverage under the VESMP Construction General Permit/ VESCP

| Type of Permit | Total Fee Paid by Applicant | Portion to be Paid to DEQ |
|--|-----------------------------|---------------------------|
| VESCP permit fee (all land disturbing activities, excluding individual single-family dwellings) | \$500 + \$100/acre | N/A |
| VESCP permit fee (land disturbing activities begun without permit, excluding individual single-family dwellings) | \$1,500 + \$200/acre | N/A |
| VESCP permit fee for single family detached/attached residential structures within or outside a common plan of development or sale with land disturbance acreage less than five (5) acres) | \$290 | N/A |
| VESCP permit fee (single family dwellings begun without permit) | \$580 | N/A |
| VESCP single family dwelling re-inspection fee | \$75 | N/A |

| | | |
|---|--------------------------------|-------------------------------|
| VESMP General/ Stormwater Management – Small Construction Activity/ Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than one acre, except for single family detached residential structures) | \$450 | \$135 |
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres) | ~~\$2,700~~
\$4,100 | ~~\$756~~ -
\$1,230 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres) | ~~3,400~~
\$5100 | ~~\$952~~
\$1530 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres) | ~~4,500~~
\$6,800 | ~~1,260~~
\$2,040 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres) | ~~\$6,100~~
\$9,100 | ~~\$1,708~~
\$2,730 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres) | ~~\$9,600~~
\$14,300 | ~~\$2,688~~
\$4,290 |

C. Fees for the modification or transfer of coverage under the VESMP construction general permit issued by the Administrator shall be imposed in accordance with Table 2. If the permit modifications result in changes to stormwater management plans that require additional review by the Administrator, such reviews shall be subject to the fees set out in Table 2 based on the total disturbed acreage of the site. Modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in Table 1.

Table 2: Fees for the modification or transfer of registration statements for the VESMP Authority Permit for Discharges of Stormwater from Construction Activities

| Type of Permit | Fee Amount |
|----------------|------------|
|----------------|------------|

| | |
|--|-----------------------------|
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, (also includes single-family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres) | ~~\$20~~
\$30 |
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres) | ~~\$200~~
\$320 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres) | ~~\$250~~
\$400 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres) | ~~\$300~~
\$480 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres) | ~~\$450~~
\$720 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres) | ~~\$700~~
\$1,120 |

D. Permit maintenance fees. (9VAC25-875-1420):

1. The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the VESMP authority permit, these fees shall apply until the permit coverage is terminated.
2. VESMP authority permit coverage maintenance fees shall be paid annually to the VESMP authority, by the anniversary date of VESMP authority general permit coverage, in accordance with Table 3. No VESMP authority permit will be reissued or automatically continued without payment of the required fee. VESMP authority permit coverage maintenance fees shall be applied until a notice of termination is effective.

Table 3: VESMP Authority Permit Maintenance Fees

| Type of Permit | Fee Amount |
|--|--------------------------------|
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, also includes single family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres.) | ~~\$50~~
\$80 |
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres) | ~~\$400~~
\$650 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres) | ~~\$500~~
\$800 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres) | ~~\$650~~
\$1,050 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres) | ~~\$900~~
\$1,450 |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres) | ~~\$ 1,400~~
\$2,250 |

E. The fees set forth in Subsections A through C above shall apply to:

1. All persons seeking coverage under the VESMP Authority Permit or VESCP permit if VESMP not required.
2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a VESMP authority permit.
3. Persons whose coverage under the VESMP Authority Permit has been revoked

shall reapply for an individual permit for discharges of stormwater from construction activities.

4. Permit and permit coverage maintenance fees outlined under Subsection C may apply to each VESMP Authority Permit holder.

F. No VESMP Authority Permit application fees will be assessed to Permittees whose permits are modified or amended at the initiative of the VESMP authority, excluding errors in the registration statement identified by the Director or errors related to the acreage of the site.

G. All incomplete VESMP permit fee payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete permit fee payments. Interest may be charged for late permit fee payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated monthly at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The Administrator shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

§143-240 Performance Bonds

A. Prior to the issuance of any permit, the owner or permittee shall execute and file with the Administrator a Frederick County monetary guaranty in such form as is in accordance with the monetary guaranty and performance agreement policy adopted by the Board and in an amount determined in accordance with the Frederick County bond estimate worksheet which shall be equal to the approximate total cost of providing erosion and sediment control and stormwater quality and quantity improvements as required by this chapter and shown on the approved plans in addition to a 25% contingency of the total bond amount.

B. The Frederick County erosion and sediment control and stormwater management performance agreement and monetary guaranty is to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice as outlined in **§143-225**, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions because of his land-disturbing activity. If the County takes such action upon such failure by the applicant, the County may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

C. Upon successful completion of the land-disturbing activity, to include submittal of a Notice of Termination of the Construction General Permit, submittal of the construction as-built drawings of permanent stormwater management facilities described in **§143-165** and prior to termination of the VESMP Permit, the owner or permittee must provide written notification to the County in accordance with the bonding policy. Upon verification of adequate stabilization of land disturbing activity in the project or any

2412 section thereof, the Administrator shall take action upon the monetary guaranty and
2413 performance agreement in accordance with the bonding policy.
2414

- 2415 D. If the applicant/owner fails to comply with the approved SWPPP as documented through
2416 the site inspections described herein, and after proper notification, the Administrator may
2417 determine that the performance agreement is in default, and the monetary guaranty may
2418 be used to execute the plan.
2419

2420 Reference: §62.1-44.15:34; 9VAC25-875-100
2421
2422



COUNTY of FREDERICK

Department of Public Works

540/665-5643

FAX: 540/678-0682

MEMORANDUM

TO: Public Works Committee

THROUGH: Joe Wilder, Director of Public Works

FROM: Ron Kimble, Landfill Manager *rk*

SUBJECT: Out of Area Waste

DATE: March 6, 2026

I have received reports of out of area waste being disposed of at the Frederick County Landfill. The landfill conducts daily random inspections of incoming waste and addresses any issues with the hauler. Oftentimes it is difficult to determine the origin of the waste based on these inspections, once it has arrived on site.

A meeting between key members of the Sherriff's department, Public Works and the County Attorney was held on March 5th to discuss this issue. During this meeting there was discussion of the Frederick County Code chapter 142 Article III, which relates to County Owned or Operated Landfills. Within the Code, service areas and prohibited waste are specified along with violations and penalties for misuse of the landfill.

Sherriff Millholland was receptive to assisting with enforcement of the County Code and suggested that his department would be able to help. Through additional discussion it was determined that the first step would be to have concerned citizens contact the Sherriff's office with information rather than allocating resources without firm leads. If an individual is found to be in violation of the County Code a summons can be issued.

It is my opinion that a short public education and enforcement period will be beneficial to discourage haulers from misuse of the landfill.

must make appropriate application and obtain a permit from the County Treasurer prior to using the County's landfill.

- (3) A hauler must notify the Director of Public Works within 24 hours of any change of address or telephone number.
- C. Permit renewal. All permits are issued for a period of three years. Renewal application must be made between October and December of the third year. Permits expire effective December 31.
- D. Permit denial, suspension or revocation.
- (1) If, in the opinion of the Director of Public Works, a hauler violates or refuses to comply with this or any provision of this article or any regulation promulgated hereunder, the County Code or the Code of Virginia, or any court relating thereto, the permit of said hauler or collector may be denied, suspended or revoked by the Director of Public Works.
 - (2) In addition to the subsection above, grounds for permit denial, suspension or revocation may include, but shall not be limited to, repeated substantiated, unsatisfactory delivery of customer service, failure to pay landfill tipping fees, unsatisfactory maintenance or cleanliness of collection vehicles, as determined following inspection by the Director of Public Works or his designee, use of the County landfill for disposal of refuse originating outside of the landfill service area, failure to abide by the reasonable conditions or regulations of the Director of Public Works and the landfill manager, or failure to abide by and update the permit application.

§ 142-31. Enforcement.

All alleged violations of any provision of this article shall be reported to the Public Works Department. The Sheriff's Department shall have concurrent authority to investigate alleged violations.

§ 142-32. Violations and penalties.

Any person, firm or corporation who or which shall violate any of the provisions of this article shall, upon conviction, be punishable by a maximum fine of \$2,500 or by incarceration in jail of not more than 12 months, or by both such fine and incarceration and/or loss of trash/recyclables disposal privileges in the County.

§ 142-33. (Reserved)

§ 142-34. (Reserved)

§ 142-35. (Reserved)

§ 142-36. (Reserved)

Christina Tasker
Shelter Manager
540/667-9192 ext. 2502
FAX 540/722-6108
E-mail: ctasker@fcva.us

MEMORANDUM

TO: Joe Wilder, Director of Public Works

FROM: Christina Tasker, Shelter Manager

SUBJECT: Pet Recreational Yards

DATE: 03/17/2026

This memorandum serves to request approval and funding for the installation of additional fencing at the County Animal Shelter. Expanded and reinforced fencing will improve operational safety, enhance animal welfare, and reduce liability risks associated with the daily handling and housing of animals within the facility. The current fencing infrastructure was designed for a lower intake volume and different operational needs than those experienced today. As animal intake and shelter operations have increased, outdoor areas are used more frequently for animal movement, exercise, and temporary holding. Additional fencing would allow the shelter to better manage these operational demands while maintaining safe and controlled environments.

Current Limitations

The current layout allows for a maximum of 4 dogs outside at any given time. The shelter's existing fencing and outdoor layout present several operational challenges:

- **Limited secure outdoor exercise space**, restricting opportunities for safe enrichment and movement for dogs.
- **Insufficient separation areas** for animals with behavioral concerns, medical needs, or quarantine requirements.
- **Operational bottlenecks** when multiple animals must be moved or exercised but space cannot safely accommodate them simultaneously.

Proposed Improvements

To address these limitations, the shelter proposes the installation of additional fencing to create safer and more functional outdoor spaces, including:

- **Installation of an additional 450' of 6-foot high 8 gauge 1 ¼ mesh black chain link fence with top and bottom rail with ten 3' wide x 6' high single gates** to expand secure containment areas, creating ten 20' x 30' kennel runs with a dog house that meets Virginia shelter requirements in each run.
- **Creation of designated outdoor exercise yards** for dogs to allow safe rotation and enrichment.
- **Construction of enclosed transfer corridors** between kennel areas and outdoor runs to allow safe movement of animals.

Operational and Safety Benefits

The addition of fencing would provide several operational and safety benefits, including:

- **Reduced risk of animal escapes**, particularly when transferring dogs between kennels, outdoor runs, and exercise areas.
- **Better separation of animals** based on behavior, species, or compatibility, reducing the likelihood of fights or injury.

- **Enhanced disease control**, allowing for physical separation of animals that are sick, under quarantine, or undergoing observation.
- **Creation of secure outdoor exercise areas** that allow dogs to receive enrichment and relief from kennel confinement while remaining safely contained.
- **Greater operational efficiency** by providing designated spaces for movement, cleaning rotations, and animal care activities.

In addition to operational improvements, increased access to secure outdoor spaces directly supports animal welfare. Regular exercise and enrichment opportunities help reduce stress in shelter animals, which can lead to improved behavior and increased adoptability.

The approximate cost, including dog houses for each run, the fencing, posts, relocation of one 10' double gate, and concreting of posts is \$50,000.00.

For these reasons, the installation of additional fencing represents practical and necessary infrastructure improvement for the shelter. Approval of this request will support safe operations, protect County resources, and improve the overall care and management of animals housed at the facility.

Attached are visual representations of what we currently have and what we are proposing.

Christina Tasker
Animal Shelter Manager

Current









Proposed doghouse:





MEMORANDUM

TO: Public Works Committee

FROM: Joe C. Wilder, Director of Public Works

SUBJECT: Monthly Tonnage Report - Fiscal Year 24/25

DATE: March 16, 2026

The following table shows the tonnage for the current fiscal year. The average monthly tonnage for fiscal years 05/06 through 24/25 is also listed below:

| | | |
|------------------|---------------------------|--------------------------------------|
| FY 05-06: | AVERAGE PER MONTH: | 17,785 TONS (UP 756 TONS) |
| FY 06-07: | AVERAGE PER MONTH: | 16,705 TONS (DOWN 1,080 TONS) |
| FY 07-08: | AVERAGE PER MONTH: | 13,904 TONS (DOWN 2,801 TONS) |
| FY 08-09: | AVERAGE PER MONTH: | 13,316 TONS (DOWN 588 TONS) |
| FY 09-10: | AVERAGE PER MONTH: | 12,219 TONS (DOWN 1,097 TONS) |
| FY 10-11: | AVERAGE PER MONTH: | 12,184 TONS (DOWN 35 TONS) |
| FY 11-12: | AVERAGE PER MONTH: | 12,013 TONS (DOWN 171 TONS) |
| FY 12-13: | AVERAGE PER MONTH: | 12,065 TONS (UP 52 TONS) |
| FY 13-14: | AVERAGE PER MONTH: | 12,468 TONS (UP 403 TONS) |
| FY 14-15: | AVERAGE PER MONTH: | 13,133 TONS (UP 665 TONS) |
| FY 15-16: | AVERAGE PER MONTH: | 13,984 TONS (UP 851 TONS) |
| FY 16-17: | AVERAGE PER MONTH: | 14,507 TONS (UP 523 TONS) |
| FY 17-18: | AVERAGE PER MONTH: | 15,745 TONS (UP 1,238 TONS) |
| FY 18-19: | AVERAGE PER MONTH: | 16,594 TONS (UP 849 TONS) |
| FY 19-20: | AVERAGE PER MONTH: | 16,973 TONS (UP 379 TONS) |
| FY 20-21: | AVERAGE PER MONTH: | 16,803 TONS (DOWN 170 TONS) |
| FY 21-22: | AVERAGE PER MONTH: | 17,553 TONS (UP 750 TONS) |
| FY 22-23: | AVERAGE PER MONTH: | 17,954 TONS (UP 401 TONS) |
| FY 23-24: | AVERAGE PER MONTH: | 17,776 TONS (DOWN 178 TONS) |
| FY 24-25: | AVERAGE PER MONTH: | 17,888 TONS (UP 112 TONS) |
| FY 25-26: | AVERAGE PER MONTH: | 17,732 TONS (DOWN 167 TONS) |

| MONTH | FY 20-21 | FY 21-22 | FY 22-23 | FY 23-24 | FY 24-25 | FY 25-26 |
|-----------|----------|----------|----------|----------|----------|----------|
| JULY | 17,677 | 17,893 | 17,250 | 22,732 | 19,050 | 21,274 |
| AUGUST | 16,517 | 21,437 | 20,877 | 18,527 | 19,442 | 20,265 |
| SEPTEMBER | 16,789 | 19,306 | 19,195 | 16,935 | 17,286 | 19,268 |
| OCTOBER | 20,127 | 18,215 | 19,273 | 18,442 | 21,317 | 22,897 |
| NOVEMBER | 15,432 | 16,927 | 16,546 | 16,814 | 15,998 | 15,168 |
| DECEMBER | 15,496 | 16,391 | 15,294 | 15,520 | 16,932 | 15,695 |
| JANUARY | 14,480 | 12,932 | 16,583 | 14,467 | 14,127 | 14,189 |
| FEBRUARY | 12,030 | 14,622 | 16,488 | 15,828 | 13,899 | 13,015 |
| MARCH | 18,758 | 18,167 | 17,987 | 18,112 | 17,696 | |
| APRIL | 18,627 | 16,952 | 16,744 | 18,151 | 20,632 | |
| MAY | 17,105 | 18,054 | 20,124 | 19,078 | 19,133 | |
| JUNE | 18,594 | 19,737 | 19,081 | 18,707 | 19,143 | |

RECYCLING REPORT FY 25/26

| <u>MONTH</u> | <u>GLASS</u> | <u>PLAST</u> | <u>AL CANS</u> | <u>STEELCANS</u> | <u>PAPER</u> | <u>OCC</u> | <u>SHOES/TEX</u> | <u>ELEC</u> | <u>SCRAP</u> | <u>TOTAL</u> |
|--------------|--------------|--------------|----------------|------------------|--------------|------------|------------------|-------------|--------------|--------------|
| JUL | 78,720 | 26,820 | | 12,080 | 48,100 | 126,400 | 4,394 | 25,720 | 285,780 | 608,014 |
| AUG | 0 | 22,720 | | 7,760 | 35,220 | 11,360 | 5,920 | 27,280 | 273,940 | 384,200 |
| SEP | 25,640 | 21,820 | | 11,240 | 26,060 | 110,040 | 4,990 | | 231,980 | 431,770 |
| OCT | 12,520 | 25,440 | | 12,880 | 41,520 | 108,160 | 6,120 | 29,680 | 236,680 | 473,000 |
| NOV | 12,680 | 22,060 | | 5,620 | 27,160 | 102,400 | 3,860 | 24,909 | 219,280 | 417,969 |
| DEC | 24,320 | 25,160 | | 16,200 | 38,260 | 156,700 | 3,260 | 26,060 | 171,200 | 461,160 |
| JAN | 26,800 | 23,020 | | 9,660 | 28,080 | 233,020 | 300 | | 159,200 | 480,080 |
| FEB | | 21,920 | | 15,320 | 31,660 | 102,380 | 1,300 | 29,340 | 91,440 | 293,360 |
| MAR | | | | | | | | | | 0 |
| APR | | | | | | | | | | 0 |
| MAY | | | | | | | | | | 0 |
| JUN | | | | | | | | | | 0 |
| TOTAL | 180,680 | 188,960 | | 90,760 | 276,060 | 950,460 | 30,144 | 162,989 | 1,669,500 | 3,549,553 |
| FY 24-25 | 180,000 | 277,920 | 0 | 140,520 | 412,000 | 1,341,600 | 112,170 | 226,668 | 2,688,940 | 5,379,818 |
| FY 23-24 | 215,320 | 278,060 | | 252,480 | 493,660 | 1,287,462 | 56,900 | 259,595 | 2,823,642 | 5,667,119 |
| FY 22-23 | 137,600 | 283,500 | | 139,760 | 448,220 | 1,288,904 | 50,720 | 342,217 | 2,593,968 | 5,284,889 |
| FY 20-21 | | 283,300 | 0 | 154,330 | 717,120 | 1,540,682 | 45,620 | 362,600 | 3,123,261 | 6,226,913 |
| FY 19-20 | | 454,859 | 37,370 | 108,974 | 854,350 | 1,174,530 | 55,100 | 391,900 | 3,209,400 | 6,286,483 |
| FY 18-19 | 0 | 430,963 | 47,082 | 96,494 | 998,815 | 1,243,232 | 83,104 | 467,720 | 2,909,857 | 6,277,267 |
| FY 17-18 | 0 | 465,080 | 53,224 | 94,530 | 1,066,300 | 1,080,087 | 37,260 | 536,420 | 2,874,709 | 6,207,610 |
| FY 16-17 | 372,600 | 430,435 | 41,002 | 89,976 | 1,082,737 | 1,009,153 | 37,220 | 495,500 | 2,687,241 | 6,245,864 |
| FY 15-16 | 919,540 | 428,300 | 52,077 | 97,252 | 1,275,060 | 974,493 | 48,820 | 480,400 | 2,376,344 | 6,652,286 |
| FY 14-15 | 895,600 | 407,703 | 40,060 | 97,515 | 1,272,660 | 893,380 | 49,440 | 532,283 | 1,890,729 | 6,079,370 |
| FY 13-14 | 904,780 | 417,090 | 39,399 | 99,177 | 1,281,105 | 902,701 | 37,800 | 611,580 | 1,639,225 | 5,932,937 |
| FY 12-13 | 913,530 | 410,338 | 45,086 | 102,875 | 1,508,029 | 878,450 | 39,700 | 502,680 | 1,321,938 | 5,722,626 |
| FY 11-12 | 865,380 | 398,320 | 43,884 | 99,846 | 1,492,826 | 840,717 | 37,920 | 484,600 | 1,432,678 | 5,696,171 |
| FY 10-11 | 949,185 | 378,452 | 42,120 | 98,474 | 1,404,806 | 824,873 | 41,700 | 467,920 | 1,220,107 | 5,427,637 |
| FY 09-10 | 1,123,671 | 370,386 | 42,844 | 96,666 | 1,235,624 | 671,669 | 21,160 | 435,680 | 1,348,398 | 5,346,098 |
| FY 08-09 | 762,810 | 322,928 | 23,473 | 55,246 | 1,708,302 | 564,957 | 28,780 | 404,760 | 1,097,151 | 4,968,407 |
| FY 07-08 | 794,932 | 284,220 | 15,783 | 40,544 | 1,971,883 | 545,692 | 0 | 498,110 | 1,172,880 | 5,324,044 |
| FY 06-07 | 600,464 | 200,720 | 11,834 | 29,285 | 1,684,711 | 441,321 | 0 | 382,574 | 550,070 | 3,900,979 |
| FY 05-06 | 558,367 | 190,611 | 12,478 | 28,526 | 1,523,162 | | | 381,469 | 204,220 | 2,898,833 |
| FY 04-05 | 549,527 | 193,224 | 11,415 | 27,525 | 1,552,111 | | | 273,707 | 25,080 | 2,632,589 |
| FY 03-04 | 541,896 | 174,256 | 11,437 | 31,112 | 1,443,461 | | | 156,870 | 336,230 | 2,695,262 |
| FY 02-03 | 413,627 | 146,770 | 9,840 | 23,148 | 1,381,195 | | | 62,840 | 171,680 | 2,209,100 |
| FY 01-02 | 450,280 | 181,040 | 10,565 | 25,553 | 1,401,206 | | | 54,061 | 58,140 | 2,180,845 |

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2025-2026

DOG REPORT

| MONTH | ON HAND AT
FIRST OF MONTH | RECEIVED
AT KENNEL | BROUGHT IN
BY ACO | BITE
CASES | BORN AT
KENNEL | ADOPTED | RECLAIMED | DISPOSED | DIED AT
KENNEL | ESCAPED/
STOLEN | CARRIED OVER
NEXT MONTH |
|-------|------------------------------|-----------------------|----------------------|---------------|-------------------|---------|-----------|----------|-------------------|--------------------|----------------------------|
| JULY | 76 | 20 | 41 | 1 | 0 | 17 | 35 | 11 | 0 | 0 | 75 |
| AUG | 75 | 14 | 26 | 2 | 0 | 28 | 18 | 6 | 0 | 0 | 65 |
| SEP | 65 | 16 | 26 | 2 | 0 | 17 | 22 | 3 | 0 | 0 | 67 |
| OCT | 67 | 32 | 28 | 0 | 0 | 18 | 30 | 26 | 0 | 0 | 53 |
| NOV | 53 | 15 | 25 | 4 | 0 | 12 | 31 | 8 | 0 | 0 | 46 |
| DEC | 46 | 15 | 18 | 0 | 0 | 23 | 11 | 7 | 0 | 0 | 38 |
| JAN | 38 | 21 | 29 | 1 | 0 | 18 | 18 | 6 | 0 | 0 | 47 |
| FEB | 47 | 15 | 21 | 5 | 7 | 27 | 18 | 10 | 1 | 0 | 39 |
| MAR | | | | | | | | | | | |
| APR | | | | | | | | | | | |
| MAY | | | | | | | | | | | |
| JUN | | | | | | | | | | | |
| TOTAL | 467 | 148 | 214 | 15 | 7 | 160 | 183 | 77 | 1 | 0 | 430 |

In the month of Feb 95 dogs in and out of kennel. 6 dogs transferred to other agencies.

FREDERICK COUNTY ESTHER BOYD ANIMAL SHELTER FY 2025-2026
CAT REPORT

| MONTH | ON HAND AT
FIRST OF MONTH | RECEIVED
AT KENNEL | BROUGHT IN
BY ACO | BITE
CASES | BORN AT
KENNEL | ADOPTED | RECLAIMED | DISPOSED | DIED AT
KENNEL | ESCAPED/
STOLEN | CARRIED TO
NEXT MONTH |
|-------|------------------------------|-----------------------|----------------------|---------------|-------------------|---------|-----------|----------|-------------------|--------------------|--------------------------|
| JULY | 82 | 40 | 9 | 1 | 10 | 17 | 2 | 21 | 0 | 0 | 102 |
| AUG | 102 | 34 | 4 | 1 | 5 | 26 | 1 | 13 | 4 | 0 | 102 |
| SEP | 102 | 30 | 4 | 3 | 0 | 23 | 1 | 9 | 4 | 0 | 102 |
| OCT | 102 | 42 | 7 | 1 | 0 | 45 | 2 | 18 | 2 | 0 | 85 |
| NOV | 85 | 27 | 4 | 0 | 0 | 23 | 0 | 16 | 1 | 0 | 76 |
| DEC | 76 | 15 | 3 | 0 | 0 | 32 | 0 | 7 | 0 | 0 | 55 |
| JAN | 55 | 47 | 3 | 0 | 0 | 26 | 1 | 24 | 1 | 0 | 53 |
| FEB | 53 | 16 | 4 | 0 | 0 | 39 | 3 | 5 | 0 | 0 | 26 |
| MAR | | | | | | | | | | | |
| APR | | | | | | | | | | | |
| MAY | | | | | | | | | | | |
| JUN | | | | | | | | | | | |
| TOTAL | 657 | 251 | 38 | 6 | 15 | 231 | 10 | 113 | 12 | 0 | 601 |

In the month of Feb 73 cats in and out of shelter. 2 cats transferred to other agencies.

Shawneeland Sanitary District Advisory Committee (SSDAC)

Minutes of February 2nd, 2026

The meeting was called to order at 7:00 p.m.

In Attendance

Kevin Alderman – Sanitary District Manager

Joe Wilder - Director of Public Works

Gary Bailey – SSDAC member

Ken Baker – SSDAC member

Jason Croasdale – SSDAC member

Micah Jacobs– SSDAC chairman

Rhonda Sargent – SSDAC member

Al Orndoff – Board of Supervisors Back Creek District

Discussions

Jason moved to approve the November 17th, 2025, meeting minutes, seconded by Gary, and unanimously approved by the committee.

The Manager's report (Attachment 1) was read by Kevin Alderman.

Micah made a motion not to hold the Shawneeland-sponsored spring yard since Patricia Boese is sponsoring the Shawneeland Trail Crawl. It was seconded by Rhonda and unanimously approved by the committee.

A landowner requested via email to add streetlights and reflectors to Shawneeland. Micah made a motion not to install streetlights due to the capital investment and ongoing variable costs to Shawneeland. Reflectors can be added by Shawneeland Maintenance as needed. Seconded by Gary and unanimously approved by the committee

Jason made a motion to set up a subcommittee to investigate potential solutions to Lake Cherokee still leaking after the last fix. It was seconded by Gary with approval votes by Jason, Gary, and Micah. Rhonda and Ken abstained. Micah will provide a cost timeline of previous fixes to the committee members. The lake's permit has six more years on it.

Residents attending the meeting: 3

Public Comments:

none

Micah moved to adjourn the meeting, seconded by Rhonda, and unanimously approved by the committee.

| <u>Upcoming Meeting Dates for 2026</u> |
|--|
| |
| May 4 th , 2026 |
| August 3 rd , 2026 |
| November 16th, 2026 |
| |

| <u>Member</u> | <u>Term End</u> |
|-----------------|-----------------|
| Micah Jacobs | 11/9/2026 |
| Jason Croasdale | 2/28/2027 |
| Gary Bailey | 8/9/2027 |
| Kenneth Baker | 10/25/2027 |
| Rhonda Sargent | 1/10/2028 |

FREDERICK COUNTY SANITARY DISTRICT OF SHAWNEELAND

MANAGER'S REPORT – FEBRUARY 2026

Snow Events:

The Shawneeland staff had a couple of small snow events to deal with earlier in the winter. The most recent event was a little more significant. The snow topped with sleet and extremely cold temperatures presented a challenge for the plow drivers. Lots of long hours and determination from the dedicated staff made all the difference. Overall, everything went very well with just a few breakdowns of the equipment.

I want to thank the citizens for staying off the roads during the storm. This goes a long way in allowing the plow drivers to keep up with conditions.

Shoulder Repair:

The staff have been repairing low shoulders throughout Shawneeland. Approximately 10 lane miles have been repaired. This process will continue when the weather is favorable.

Pipe Replacement:

Staff have replaced and upgraded 190' of drainage culverts over the last 2 months. This process will continue this spring.

Asphalt Patching:

Asphalt patching will begin in the month of April. We will be repairing all spots that are damaged ahead of the Tar-Chip program. Then we will begin Motor Grader Patching trails throughout Shawneeland over the summer months.

Tree Removal:

Staff began cutting dead and dying trees in January. This process will continue until the current tree list is complete.

Fishing Derby:

The trout for the fishing derby will be ordered within the next couple of weeks. I am going to order the same amount of trout that has been ordered over the past few years.

Cherokee Lake:

The lake level is currently at 207" below full pool. This time last year it was about 50" below full pool.

Tax Map No.: 49A02 2 FWO# 2454997

Consideration: \$1.00

Prepared by: Jacob T. Penrod, Attorney/VSB#65819
 Hoover Penrod PLC
 342 S Main St, Harrisonburg VA 22801

Return to: SVEC, Regional Office
 3463 Valley Pike,
 Winchester, VA 22602

UTILITY SERVICES EASEMENT

THIS DEED OF EASEMENT, made this ____ day of _____, 20__, between _____, COUNTY OF FREDERICK, VIRGINIA _____, "Grantor", whether one or more, and SHENANDOAH VALLEY ELECTRIC COOPERATIVE, a Virginia utility consumer services cooperative, "Grantee".

W I T N E S S E T H:

That for good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor grants unto Grantee, its successors and assigns, the right, privilege, and easement to construct, extend for future requirements of Grantor or others and onto other properties, operate, and maintain overhead and underground electric and other utility service lines, communication infrastructure, facilities, conduits and other cables with accessories and appurtenances for transmitting and distributing electric power, other utility services, broadband and other communication services, and data delivery and receipt services, over, under, through, upon, above and across the lands of Grantor containing 149.28 acres, more or less, identified by **Tax Map No.** 49A02 2 F within or near the city/town/community of Winchester in Frederick County, Virginia, within BACK CREEK Magisterial District, the center line of such easement shall be located and fixed where the lines, conduits and cables are actually constructed. In the event a plat or sketch is attached hereto, such document is for reference purposes only, is intended to provide only the approximate location of the installed facilities and, unless such plat or sketch clearly indicates otherwise, it has not been surveyed and is not to scale. Grantee shall have the right to license, permit, or otherwise agree to the joint use or occupancy of any overhead space or trench and related underground facilities, by any other person, association, or corporation. "Communication infrastructure" includes fiber optic cable, coaxial cable, small cell base stations, and related facilities and equipment for broadband, other communication services, data delivery and receipt services, and the right to grant rights in, lease, license, or permit the use of such infrastructure to or from third parties for the same or similar purposes.

The facilities erected hereunder shall remain the property of Grantee, removable at the option of Grantee. Grantee shall have the right to inspect, rebuild, remove, repair, improve and relocate on the easement herein described, including but not limited to the airspace above the property controlled by Grantor, and make such changes, alterations, substitutions, additions to or extensions of its facilities as Grantee may from time to time deem advisable, including but not limited to the right to increase or decrease the number of wires, conduits, cables, anchors, hand-holes, connection boxes, transformers, transformer enclosures, and communication infrastructure equipment.

For the purpose of exercising its rights hereunder, Grantee further shall have the right of access to the easement over the lands adjacent to the easement or lying between public or private roads and the easement, in such manner as shall occasion the least practicable damage and inconvenience to Grantor.

Grantee shall repair damage it causes to roads which would not have been similarly damaged by Grantor or Grantor's contractors during any construction project on lands served by the line or system. Grantee shall repair damage it causes to fences or other improvements and shall pay Grantor for any other damage it causes in the exercise of its rights hereunder, including its right of access; provided Grantor gives written notice thereof to Grantee within thirty days after any damage occurs.

Grantee shall have the right to cut, trim, and control the growth, by machinery, herbicide, or otherwise, of trees, limbs, undergrowth, shrubbery or other vegetation located within 15 feet of the center line of any overhead facilities within said easement and within 7.5 feet of the center line of any underground facilities within said easement, or that may interfere with or threaten to endanger the operation and maintenance of the works constructed or services rendered pursuant to this easement, including the right to cut danger trees or hazard trees, as defined by Grantee, outside the

easement. All trees and limbs cut by Grantee at any time shall remain the property of Grantor. Grantor covenants that it will keep the easement clear of all buildings, structures, or other obstructions.

Subject to any prescriptive easement of Grantee upon the lands of Grantor, Grantor covenants that it is seized of and has the right to convey the said easement, rights and privileges; that Grantee shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that Grantor shall execute such further assurances thereof as may be required. This is an easement in gross; the rights granted to Grantee herein are exclusive rights; and all rights granted herein, including but not limited to rights with respect to communication infrastructure and rights of access to accomplish the purposes of this easement, may be separated from any other such rights, and apportioned for any use by Grantee, its successors and assigns to third parties, whether by grant and assignment or by lease, provided that the third party is a broadband or other communication service provider, including a public utility as defined in Va. Code § 56-265.1, a cable operator as defined in Va. Code § 15.2-2108.1:1, a local exchange carrier, competitive or incumbent, or a subsidiary or affiliate of any such entity. Nothing contained herein shall constitute a waiver or relinquishment of prescriptive easement rights of Grantee arising by virtue of prior use by Grantee or its predecessor in interest of any of the rights granted herein. Nothing contained herein shall constitute a waiver of Grantee's rights pursuant to Va. Code § 55.1-306.1. The individual(s) executing this Deed of Easement expressly covenant that no persons or entities have an interest in the property subject to the rights granted herein, other than themselves and any applicable corporation, limited liability company, trust, decedent's estate, or other entity for which they have lawful authority to bind to the terms hereof and do so hereby, and agree to indemnify Grantee for any loss arising from the breach of this covenant. This covenant shall not apply to any lien upon such property arising from a mortgage, deed of trust, judgment, or tax obligation, or with respect to any leasehold rights in the property.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

WITNESS the following signatures and seals.

_____ (SEAL) _____ (SEAL)

_____ (SEAL) _____ (SEAL)

STATE OF _____

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____, Grantor(s).

My commission expires:_____.

Notary Registration No:_____.

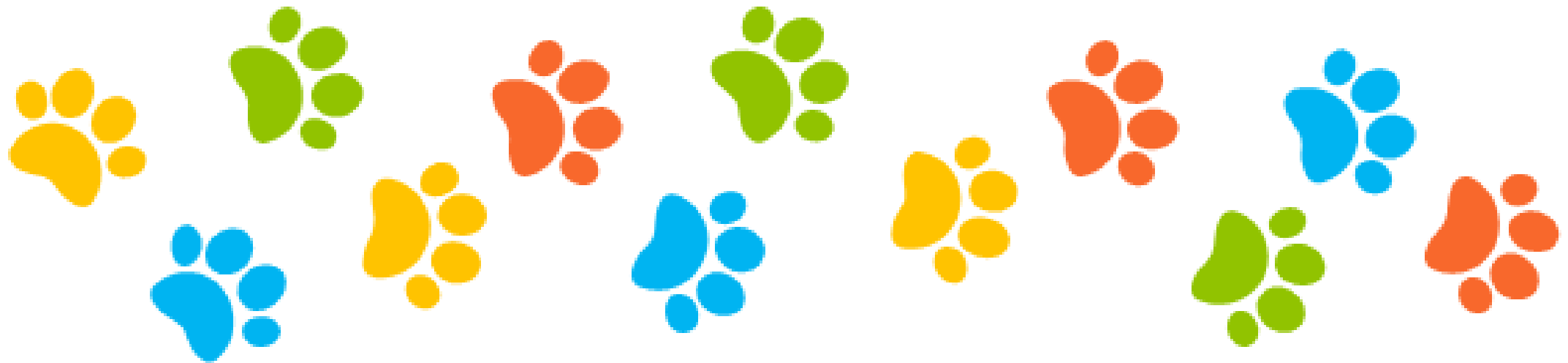
*(Affix visible Seal, Do Not Stamp in margin area,
margins must be white space and blank!)*

Notary Public signature



Frederick County Animal Shelter

Enhancement ideas



What do we do?

- FCAS cares for the unwanted pets of Frederick County, VA. This includes owner surrenders from FC residents, stray dogs found within county limits, sick or injured stray cats within county limits, court cases, and quarantines.
 - Provides food, water, shelter, and vet care if needed, to all animals in our custody.
 - Provide enrichment, supporting mental health as well as physical health
 - Our goal is to find homes for the adoptable animals that come into our custody.



Animal Friendly “couches”

- Easily sanitized
- When placed in the cat rooms and visitation rooms, creates a more welcoming and friendly atmosphere as well as provides seating
- Provides a more “home-like” atmosphere for the animals





Camera system

- This is the current views we have of the building. Outside, there is currently only a partial view of the back sally-port, and a partial view of the side parking lot.
- An upgrade
 - would provide more views, with better quality
 - Enhanced security for staff and animals



Window insulation/film

- Wind can be felt coming through the windows in the cat rooms, making those rooms colder in the winter.
- The sun streaming through the dog rooms makes those rooms warmer in the summer.
- The sun glare obscures the cameras in the stray-hold and isolation rooms.



Microchip Scanning Stations

- Microchip Scanning Stations where citizens can utilize the scanner and follow instructions on how to contact owner information-



Community Programs:

Currently, FCAS does not have any community programs. That is going to change.



Frederick County Pet Pantry



Accessibility

- Scheduled time of day for accessing.
- annual budget.

Requirements & Limits

- Frederick County Resident (with ID)
- Dry Food limited to 1 bag per type
- 1 visit per person, per week

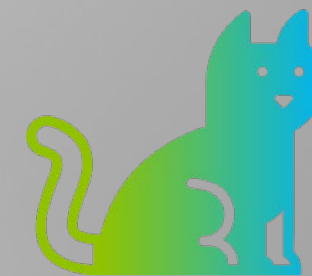
Items available

- Wet/dry dog and cat food
- Bowls
- Litter
- Leashes
- Collars
- Harnesses





Humane Education Workshops



Quarterly

- Once per quarter to start



Humane education

- Pet related educational topics- with guest speakers related to the topic.



Pet related activities

- Making emergency “Go-bags”
- Making slip leads



“Kids Club”- the kid’s version of humane education workshops



Quarterly

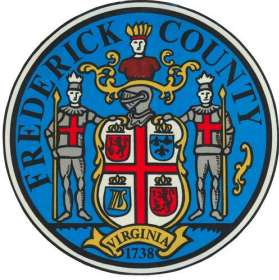
- Once per quarter to start

Kid-friendly education

- Kid-friendly/age-appropriate educational topics

Kid-friendly activities

- Painting rocks
- Crocheting cat beds
- Making cat toys



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title: The Director of Public Works requests a \$50,000 General Fund supplemental appropriation representing funds for a new pet recreation area at the Animal Shelter. Funds are available in the Animal Shelter Reserve. This item was approved by the Public Works Committee. No additional local funds required.

Attachments:

[BOS04-22-26PetRecArea.pdf](#)



MEMORANDUM

TO: Sharon Kibler, Director of Finance

FROM: Joe C. Wilder, Director of Public Works

SUBJECT: Supplemental Appropriation
Pet Recreation Area – Animal Shelter

DATE: April 1, 2026

The Animal Shelter is requesting a supplemental appropriation of \$50,000 to fund the purchase and installation of a new pet recreation area, phase 1. As animal intake and shelter operations have increased, outdoor spaces are being utilized more frequently for animal movement, exercise, and temporary holding. The addition of fencing will enable the shelter to better manage these operational demands while maintaining safe and controlled environments (see Attachment 1).

Funding for this project will be provided entirely from the Animal Shelter donation fund reserve, with no use of local tax dollars. The donation fund currently has sufficient resources to support special projects of this nature. The estimated total cost of \$50,000 includes dog houses for each run, fencing and posts, relocation of one 10-foot double gate, and the concreting of posts. Please note that use of these special funds must be approved by the Board of Supervisors.

At the March 31, 2026, Public Works Committee meeting, the committee unanimously approved a supplemental appropriation in the amount of \$50,000 for the purchase and installation of additional fencing and dog houses. The committee also voted to forward the request to the Finance Committee for further consideration and approval.

Please include this supplemental appropriation request in the amount of \$50,000 on the next Finance Committee agenda for consideration. The request is to transfer funds from reserve line item 010-000240-2501 to line item 010-04305-8900-00 (Improvements Other Than Buildings) in the amount of \$47,000, for fencing and site improvements, and to line item 010-04305-5413-00 (Other Operating Supplies) in the amount of \$3,000 for the purchase of new dog houses.

JCW/amr

attachments as stated

cc: file

Christina Tasker
Shelter Manager
540/667-9192 ext. 2502
FAX 540/722-6108
E-mail: ctasker@fcva.us

MEMORANDUM

TO: Joe Wilder, Director of Public Works

FROM: Christina Tasker, Shelter Manager

SUBJECT: Pet Recreational Yards

DATE: 03/17/2026

This memorandum serves to request approval and funding for the installation of additional fencing at the County Animal Shelter. Expanded and reinforced fencing will improve operational safety, enhance animal welfare, and reduce liability risks associated with the daily handling and housing of animals within the facility. The current fencing infrastructure was designed for a lower intake volume and different operational needs than those experienced today. As animal intake and shelter operations have increased, outdoor areas are used more frequently for animal movement, exercise, and temporary holding. Additional fencing would allow the shelter to better manage these operational demands while maintaining safe and controlled environments.

Current Limitations

The current layout allows for a maximum of 4 dogs outside at any given time. The shelter's existing fencing and outdoor layout present several operational challenges:

- **Limited secure outdoor exercise space**, restricting opportunities for safe enrichment and movement for dogs.
- **Insufficient separation areas** for animals with behavioral concerns, medical needs, or quarantine requirements.
- **Operational bottlenecks** when multiple animals must be moved or exercised but space cannot safely accommodate them simultaneously.

Proposed Improvements

To address these limitations, the shelter proposes the installation of additional fencing to create safer and more functional outdoor spaces, including:

- **Installation of an additional 450' of 6-foot high 8 gauge 1 ¼ mesh black chain link fence with top and bottom rail with ten 3' wide x 6' high single gates** to expand secure containment areas, creating ten 20' x 30' kennel runs with a dog house that meets Virginia shelter requirements in each run.
- **Creation of designated outdoor exercise yards** for dogs to allow safe rotation and enrichment.
- **Construction of enclosed transfer corridors** between kennel areas and outdoor runs to allow safe movement of animals.

Operational and Safety Benefits

The addition of fencing would provide several operational and safety benefits, including:

- **Reduced risk of animal escapes**, particularly when transferring dogs between kennels, outdoor runs, and exercise areas.
- **Better separation of animals** based on behavior, species, or compatibility, reducing the likelihood of fights or injury.

- **Enhanced disease control**, allowing for physical separation of animals that are sick, under quarantine, or undergoing observation.
- **Creation of secure outdoor exercise areas** that allow dogs to receive enrichment and relief from kennel confinement while remaining safely contained.
- **Greater operational efficiency** by providing designated spaces for movement, cleaning rotations, and animal care activities.

In addition to operational improvements, increased access to secure outdoor spaces directly supports animal welfare. Regular exercise and enrichment opportunities help reduce stress in shelter animals, which can lead to improved behavior and increased adoptability.

The approximate cost, including dog houses for each run, the fencing, posts, relocation of one 10' double gate, and concreting of posts is \$50,000.00.

For these reasons, the installation of additional fencing represents practical and necessary infrastructure improvement for the shelter. Approval of this request will support safe operations, protect County resources, and improve the overall care and management of animals housed at the facility.

Attached are visual representations of what we currently have and what we are proposing.

Christina Tasker
Animal Shelter Manager

Current



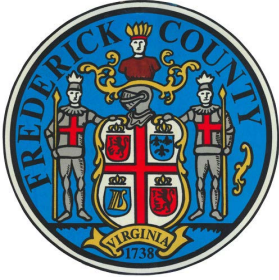






Proposed doghouse:





Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title:

Approval of Revisions to County Code – Chapter 143 – Stormwater/Erosion and Sediment Control Ordinance as Requested by the Public Works Committee

Attachments:

[BOS04-22-26Chapter143OrdinanceUpdate.pdf](#)



MEMORANDUM

TO: Board of Supervisors

FROM: Joe C. Wilder, Director of Public Works

SUBJECT: Amendment to Frederick County Code Chapter 143 – Stormwater/Erosion and Sediment Control

DATE: April 6, 2026

Staff presented proposed amendments to Chapter 143 of the County Code, Stormwater/Erosion and Sediment Control Ordinance, to maintain compliance with the County's Municipal Separate Storm Sewer System (MS4) permit issued by the Virginia Department of Environmental Quality (DEQ). The County has obtained MS4 permit coverage and submitted its program plan and GIS mapping to DEQ for review in February 2026.

The proposed amendments add a definition of "illicit discharge" and establish a new section (143-180) prohibiting illicit discharges, in accordance with MS4 permit requirements and state guidance.

The ordinance also reflects updated DEQ VESMP permit fees, effective July 1, 2026. These fees are collected by the County as part of the stormwater program, with DEQ billing its portion of the state fee.

Following discussion, the Committee unanimously recommended approval of the ordinance amendments and forwarding them to the Board of Supervisors for consideration at a public hearing.

JCW/amr

cc: file



ORDINANCE

TO AMEND FREDERICK COUNTY CODE CHAPTER 143 – STORMWATER/EROSION AND SEDIMENT CONTROL

§143-110 Definitions; §143-180 Prohibitions Illicit Discharges; §143-215 Monitoring and inspections of permanent stormwater management facilities; §143-225 Enforcement, violations and penalties; and §143-235 Fees

WHEREAS, proposed amendments to Chapter 143 of the County Code, Stormwater/Erosion and Sediment Control Ordinance, are necessary to maintain compliance with the County’s Municipal Separate Storm Sewer System (MS4) permit issued by the Virginia Department of Environmental Quality (DEQ); and

WHEREAS, a definition of “illicit discharge” has been added and a new section (143-180) prohibiting illicit discharges has been added in accordance with MS4 permit requirements and state guidance; and

WHEREAS, the ordinance reflects updated DEQ VESMP permit fees, effective July 1, 2026;

NOW, THEREFORE, BE IT ORDAINED by the Frederick County Board of Supervisors, that in the interest of public health, safety, and general welfare, the amendment to Chapter 143, Stormwater and Erosion and Sediment Control, as displayed in the attached document, is adopted.

Adopted this 22nd day of April 2026 by the following recorded vote:

John F. Jewell, Chairman

Michael D. Guevremont

Albert L. Orndorff

Robert T. Liero

Jason C. Aikens

Gary R. Oates

Robert W. Wells

A COPY ATTEST

Michael L. Bollhoefer
Frederick County Administrator

No.

Draft Stormwater/Erosion and Sediment Control Ordinance
Frederick County, Virginia. – Proposed County Code Chapter 143

February 2026 Draft Revision (deletions shown in ~~bold-strikethrough~~ and additions shown in **bold underline**):

§143-100 Purpose

The Frederick County Board of Supervisors desires to protect the health, safety, welfare, and property of Frederick County residents and businesses, and the quality of waters within the County. The Frederick County Board of Supervisors recognizes that development tends to degrade these waters through erosion and sedimentation, increased flooding, stream channel erosion, and the transport and deposition of waterborne pollutants. This degradation is due, in part, to increased stormwater runoff as property is developed. Hence, as required by § 62.1-44.15:27 Code of Virginia and in compliance with the Virginia State Water Control Board requirements, the Frederick County Board of Supervisors has determined that it is in the public interest to establish requirements which regulate the discharge of stormwater runoff from developments by integrating hydrologic and water quality functions into all aspects of a development's design, landscape, and infrastructure.

- A. The purpose of this chapter is to establish minimum stormwater management and erosion and sediment control requirements which:
1. Reduce flood damage to property; minimize the impacts of increased stormwater runoff from new land development.
 2. Maintain the hydraulic adequacy of existing and proposed culverts, bridges, dams, and other structures.
 3. Prevent, to the greatest extent feasible, an increase in nonpoint source pollution.
 4. Maintain the integrity of stream channels for their biological functions and drainage.
 5. Maintain natural drainage patterns to the extent practicable to promote existing hydrologic processes.
 6. Promote infiltration of stormwater to recharge groundwater resources.
 7. Minimize the impact of development upon stream erosion.
 8. Preserve and protect water supply facilities from increased flood discharges, stream erosion, and nonpoint source pollution.

9. Establish provisions for long-term responsibility for and maintenance of stormwater management control devices and techniques to manage the quality and quantity of stormwater runoff.
 10. Provide effective control of soil erosion and sediment deposition and to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources.
- B. This chapter supplements and is to be applied in conjunction with Frederick County building code, subdivision, and zoning ordinances as they apply to the development or subdivision of land within the County.

§143-105 Authority

- A. This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1, Article 2.3 (§ 62.1-44.15:24 et seq.), known as the “Virginia Erosion and Stormwater Management Act”(VESMA)
- B. Pursuant to the Code of Virginia § 62.1-44.15:54, the Frederick County Public Works Department is designated as the Virginia Erosion and Sediment Control Program (VESCP) authority to operate a Virginia Erosion and Sediment Control Program in Frederick County, Virginia and for the Towns of Middletown and Stephens City in compliance with all required elements hereto.
- C. Pursuant to the Code of Virginia § 62.1-44.15:27, the Frederick County Public Works Department is designated as a Virginia Stormwater Management Program (VSMP) authority to operate a Virginia Stormwater Management Program in Frederick County, Virginia and for the Towns of Middletown and Stephens City in compliance with all required elements hereto.

§143-110 Definitions

In addition to the definitions set forth in 9VAC25-875-20 of the Virginia Erosion and Stormwater Management Regulation, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter have the following meanings for the purposes of this chapter, unless the context clearly indicates otherwise.

ADMINISTRATOR

The Virginia Erosion and Stormwater Management Program (VESMP) authority has been designated to the Frederick County Public Works Department responsible for administering the VESMP on behalf of Frederick County, Virginia.

AGREEMENT IN LIEU OF AN EROSION AND SEDIMENT CONTROL PLAN

A contract between the VESMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of VESMA and this

chapter for the construction of a (i) single-family residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than 5.0%; such contract may be executed by the VESMP authority in lieu of a soil erosion control and stormwater management plan or by the department acting as a VSMP authority in lieu of a stormwater management plan..

AGREEMENT IN LIEU OF STORMWATER MANAGEMENT PLAN

A contract between the VESMP authority and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of a VESMP for the construction of a single-family residence; such contract may be executed by the VESMP authority in lieu of a stormwater plan.

APPLICANT

Any person submitting a soil erosion control and stormwater management plan to a VESMP authority, or a stormwater management plan to the department when it is serving as a VSMP authority, for approval in order to obtain authorization to commence a land-disturbing activity.

BEST MANAGEMENT PRACTICE or BMP

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.

1. "Nonproprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are in the public domain and are not protected by trademark or patent or copyright.

2. "Proprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are privately owned and controlled and may be protected by trademark or patent or copyright.

BEST MANAGEMENT PRACTICE IMPLEMENTATION PLAN or BMP IMPLEMENTATION PLAN

Is a site-specific design plan for the implementation of BMPs on an individual single-family lot or other parcel with less than one acre of land disturbance within a larger common plan of development. The BMP Implementation Plan provides detailed information on the implementation of the SWM pollutant load and volume reduction BMP and other requirements for the individual lot or parcel as detailed in the SWPPP and SWM plans of the VESMP Permit for the larger common plan of development.

BOARD

The Virginia State Water Control Board. When used outside the context of the promulgation of regulations, including regulations to establish general permits, "board" means the Department of Environmental Quality.

CERTIFICATION

The designation issued by the department, on behalf of the Commonwealth, to individuals who have completed department-approved training programs and met any additional eligibility requirements or in other ways demonstrated adequate knowledge and experience in accordance with the eligibility requirements of 9VAC25-875-410 related to the specified classifications (9VAC25-875-400) within the separate subject areas of ESC or SWM or both.

CHANNEL

A natural stream or manmade waterway.

CLEAN WATER ACT OR CWA

The federal Clean Water Act (33 USC §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.

CLEARING

Any activity which removes vegetative ground cover including, but not limited to, root material removal or topsoil removal.

COMMENCEMENT OF LAND DISTURBANCE

The initial disturbance of soils associated with clearing, grading, or excavating activities or other construction activities (e.g., stockpiling of soil fill material).

COMMON PLAN OF DEVELOPMENT

The contiguous area where separate and distinct construction activities may be taking place at different times on different schedules.

CONTROL MEASURE

Any BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

COUNTY

County of Frederick, Virginia.

DEPARTMENT

The Department of Environmental Quality.

DESIGN STORM

For purposes of addressing quantity control provisions of §143-165 means the one-year, two-year, 10-year, 24-hour design storms as defined in §143-145E. The design storm for purposes of complying with the water quality provisions of §143-165C is the one-inch rainfall depth as applied with the “Virginia Runoff Reduction Method”

DEVELOPMENT

Either or both of the following:

- A. 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.
- B. A tract or parcel of land developed or to be developed as a single unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

DIRECTOR

The Director of Frederick County Public Works or assigned designee.

DRAINAGE AREA

A land area, water area, or both from which runoff flows to a common point.

EROSION AND SEDIMENT CONTROL (ESC) PLAN OR PLAN

A document containing material for the conservation of soil and water resources of a unit or group of units of land. It may include appropriate maps, an appropriate soil and water plan inventory and management information with needed interpretations, and a record of decisions contributing to conservation treatment. The plan shall contain all major conservation decisions to ensure that the entire unit or units of land will be so treated to achieve the conservation objectives.

EROSION IMPACT AREA

An area of land not associated with current activity but subject to persistent soil erosion resulting in the delivery of sediment onto neighboring properties or into state waters. This definition shall not apply to any lot or parcel of land of 10,000 square feet or less used for residential purposes or to shorelines where the erosion results from wave action or other coastal processes.

EXCAVATING

Any digging, scooping or other methods of removing earth materials.

FILLING

Any depositing or stockpiling of earth materials.

FINAL STABILIZATION

One of the following situations has occurred:

- A. All soil-disturbing activities at the construction site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), provides 75% or more vegetative cover with no significant bare areas, is mature enough to survive, and will inhibit erosion.

B. For individual lots in residential construction, final stabilization can occur by either:

- 1) The homebuilder completing final stabilization as specified in Subsection A of this definition; or
- 2) The homebuilder establishing temporary stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization. The homebuilder shall maintain a copy of the written notification and a signed statement certifying that the information was provided to the homeowner in accordance with the stormwater pollution prevention plan recordkeeping requirements as specified in Part II G 6 of 9VAC25-880-70

C. For construction projects on land used for agricultural purposes (e.g., pipelines across crop or range land), final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in Subsection A of this definition.

FLOOD-FRIDGE

The portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes the flood or floodway fringe designated by the Federal Emergency Management Agency.

FLOODING

A volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

FLOODPLAIN

The area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes the floodplain designated by the Federal Emergency Management Agency.

FLOOD-PRONE AREA

The component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency.

GENERAL PERMIT

A permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

GRADING

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

HYDROLOGIC UNIT CODE or HUC

A watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

ILLCIT DISCHARGE

Means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharge pursuant to a separate VPDES or permit (other than the permit for discharges from the municipal separate storm sewer), discharges resulting from firefighting activities, and discharges identified by and in compliance with 9VAC25-875-970 D 2 c (3).

IMMEDIATELY

As soon as practicable, but no later than the end of the next business day, following the day when the construction activities have temporarily or permanently ceased. In the context of this general permit, "immediately" is used to define the deadline for initiating stabilization measures.

IMPAIRED WATERS

Surface waters identified as impaired on the most recent Water Quality Assessment Integrated Report.

IMPERVIOUS COVER

A surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

INFEASIBLE

Not technologically possible or not economically practicable and achievable in light of best industry practices.

INITIATION OF STABILIZATION ACTIVITIES:

- A. Prepping the soil for vegetative or non-vegetative stabilization;

- B. Applying mulch or other non-vegetative product to the exposed area;
- C. Seeding or planting the exposed area;
- D. Starting any of the above activities on a portion of the area to be stabilized, but not on the entire area; or
- E. Finalizing arrangements to have the stabilization product fully installed in compliance with the applicable deadline for completing stabilization.

INSPECTION

An onsite review of the project's compliance with any applicable design criteria, or an onsite review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the VESMA, ESCL, and applicable regulations.

KARST AREA

Any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

KARST FEATURES

Sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

LAND DISTURBANCE or LAND-DISTURBING ACTIVITY

A manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

LAND-DISTURBANCE APPROVAL

An approval allowing a land-disturbing activity to commence issued by (i) a VESMP or VSMP authority after the requirements of § 62.1-44.15:34 of the Code of Virginia have been met or (ii) a VESCP authority after the requirements of § 62.1-44.15:55 of the Code of Virginia have been met.

LAYOUT

A conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

LOCALIZED FLOODING

Smaller-scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

MAIN CHANNEL

The portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

MAJOR MODIFICATION

For the purposes of this chapter, the modification or amendment of an existing state permit before its expiration that is not a minor modification as defined in this regulation.

MANMADE

Constructed by man.

MEASURABLE STORM EVENT

A rainfall event producing 0.25 inches of rain or greater over 24 hours or snow melt from a snow event producing 3.25 inches or more of snow within a 24-hour period.

MINOR MODIFICATION

For the purposes of this chapter, minor modification or amendment of an existing state permit before its expiration for the reasons listed at 40 CFR 122.63 and as specified in 9VAC25-875-1240. Minor modification for the purposes of this chapter also means other modifications and amendments 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 state permit modification or amendment does not substantially alter state 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.

NATURAL CHANNEL DESIGN CONCEPTS

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

NATURAL STREAM

A tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

OPERATOR

The owner or operator of any facility or activity subject to the VESMA and this chapter. In the context of stormwater associated with a large or small construction activity, "operator" means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit or VESMP authority permit conditions (i.e., the person is

authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). In the context of stormwater discharges from an MS4, "operator" means the operator of the regulated MS4 system..

OWNER

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

PEAK FLOW RATE

The maximum instantaneous flow from a prescribed design storm at a particular location.

PERCENT IMPERVIOUS

The impervious area within the site divided by the area of the site multiplied by 100.

PERMIT or VESMP AUTHORITY PERMIT

An approval to conduct a land-disturbing activity issued by the Frederick County Public Works Department, the permit-issuing VESMP authority, for the initiation of a land-disturbing activity after evidence of coverage under the General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 et seq. of the Virginia Stormwater Management Program Regulations has been provided. A person shall not conduct any land disturbing activity until he has submitted a permit application to the County that includes a state VESMP permit registration statement, if such statement is required, a stormwater management plan or an executed agreement in lieu of a stormwater plan and has obtained County approval to begin land disturbance.

PERMITTEE

The person to whom the land-disturbing permit or approval is issued, and/or the person to whom the VESMP permit is issued, and/or the person who certifies that the approved erosion and sediment control plan will be followed and/or the person who certifies that the approved stormwater plan will be followed.

PERSON

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 OF DISCHARGE

A location at which concentrated stormwater runoff is released.

POST-DEVELOPMENT

Refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

PREDEVELOPMENT

Refers to the conditions that exist at the time that plans for the land-disturbing activity are submitted to the plan approval VESMP authority. Where phased development or plan approval occurs (e.g. preliminary grading, demolition of existing structures, roads, and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

PRIOR DEVELOPED LAND

Land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

QUALIFIED PERSONNEL

A person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity. On or after July 1, 2025, "qualified personnel" shall hold an unexpired Dual Inspector certification issued by the department; an unexpired Inspector for Erosion and Sediment Control certification and an unexpired Inspector for Stormwater Management certification, both issued by the department ; a Construction General Permit Qualified Personnel Certificate issued by the department or the Virginia Department of Transportation; or an equivalent certification provided by EPA (currently titled Construction Inspection Training Course).

REGULATIONS

The Virginia Erosion and Stormwater Management Regulation, 9VAC25-875-10, et seq., as amended; or the general VPDES permit regulations, 9VAC 25-880-10 et seq., as amended.

RESPONSIBLE LAND DISTURBER or “RLD”

An individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan or permit as defined in this chapter as a prerequisite for engaging in land disturbance.

RUNOFF or STORMWATER RUNOFF

That portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

RUNOFF CHARACTERISTICS

Include maximum velocity, peak flow rate, volume, and flow duration.

RUNOFF VOLUME

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

SINGLE FAMILY RESIDENCE

A noncommercial dwelling that is designed to be occupied exclusively by one family.

SITE

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.

SITE HYDROLOGY

The movement of water on, across, through, and off the site as determined by parameters including soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

STATE

The Commonwealth of Virginia.

STATE PERMIT

An approval to conduct a land-disturbing activity issued by the Board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the Board for stormwater discharges from a municipal separate storm sewer system (MS4). Under these state permits, the State imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Act, and this chapter. As the mechanism that imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, a state permit for stormwater discharges from an MS4 and, after June 30, 2014, a state permit for conducting a land-disturbing activity issued pursuant to the Virginia Stormwater Management Act, are also types of Virginia Pollutant Discharge Elimination System (VPDES) Permits. “State permit” does not include any state permit that has not yet been the subject of final Board action, such as a draft state permit. Approvals issued pursuant to this chapter, 9VAC25-880, and 9VAC25-890 are not issuances of a permit under §62.1-44.15:01 of the Code of Virginia.

STATE WATERS

All water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

STORMWATER

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 CONVEYANCE SYSTEM

A combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

1. MAN-MADE STORMWATER CONVEYANCE SYSTEM

A pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;

2. NATURAL STORMWATER CONVEYANCE SYSTEM

The main channel of a natural stream and the flood-prone area adjacent to the main channel; or

3. RESTORED STORMWATER CONVEYANCE SYSTEM

A stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

STORMWATER DISCHARGE ASSOCIATED WITH CONSTRUCTION ACTIVITY

A discharge of stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow area, concrete truck washout, fueling); or other industrial stormwater directly related to the construction process (e.g., concrete or asphalt batch plants) are located.

STORMWATER MANAGEMENT CONCEPT PLAN

Documents developed at the preliminary plan, zoning, or other state of the development process that establish the initial layout of the development along with sufficient information to ensure that the final development stormwater management plan will comply with this chapter.

STORMWATER MANAGEMENT FACILITY

A control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

STORMWATER MANAGEMENT HANDBOOK

The Virginia Stormwater Management Handbook and/or a locally adopted erosion and sediment control handbook with such amendments, modifications and supplements as may, from time to time, be properly adopted.

STORMWATER MANAGEMENT PLAN

Documents containing material describing methods for complying with the requirements of a VESMP.

STORMWATER POLLUTION PREVENTION PLAN or SWPPP

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. A SWPPP required under a VESMP or VSMP for construction activities shall identify and require the implementation of control measures

and shall include or incorporate by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

STORMWATER POLLUTION PREVENTION PLAN TEMPLATE or SWPPP TEMPLATE

Documents intended to be used for single family residential construction activity that disturbs less than one acre of land and is part of a larger common plan of development to identify all applicable requirements of the SWPPP that was developed for the larger common plan of development.

SUBDIVISION

The same as defined in the Frederick County Subdivision Ordinance (Chapter **144** of Frederick County, Virginia Code).

SURFACE WATERS

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. That are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as

prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with EPA.

TOTAL MAXIMUM DAILY LOAD or TMDL

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.

TOWN

Either of the incorporated Towns of Middletown or Stephens City.

VIRGINIA EROSION AND SEDIMENT CONTROL PERMIT PROGRAM AUTHORITY

The County, which has adopted a soil erosion and sediment control program that has been approved by the Board, is the Virginia Erosion and Sediment Control Permit Program Authority for issuance of land disturbing permits, plan review, inspections, and enforcement of compliance with applicable laws and regulations, in the County and in the Towns of Middletown and Stephens City.

VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM or VESCP

A program approved by the Board that has been established by a VESCP authority for the effective control of soil erosion, sediment deposition, and non-agricultural run-off associated with a land disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include items where applicable as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement where authorized in this chapter, and evaluation consistent with the requirements of this chapter and its associated regulations.

VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM (VESCP) LAND DISTURBANCE or VESCP LAND-DISTURBING ACTIVITY

Any man-made change to the land surface that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the State, including, but not limited to, clearing, grading, excavating, transporting, and filling of land, except that the term shall not include:

- A. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- B. Individual service connections;
- C. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street or sidewalk provided the land-disturbing activity is confined to the area of the road, street or sidewalk that is hard surfaced;

- D. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
- E. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;
- F. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100 et seq.) of Title 10.1 of the code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection **B** of §10.1-1163 of the Code of Virginia;
- G. Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
- H. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, Article 2 (§ 10.1-604 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation;
- I. Disturbed land areas of less than 10,000 square feet in size; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;
- J. Installation of fence and signposts or telephone and electric poles and other kinds of posts or poles;
- K. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this and the regulations adopted pursuant thereto; and
- L. Emergency work to protect life, limb or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

A collection that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the VESMA and associated regulations.

VIRGINIA EROSION AND STORMWATER MANAGEMENT ACT or VESMA

Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1, State Water Control Law, of Title 62.1 of the Code of Virginia.

VIRGINIA STORMWATER MANAGEMENT HANDBOOK

a collection of pertinent information that provides general guidance for compliance with the VESMA and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

VIRGINIA STORMWATER MANAGEMENT PROGRAM or VSMP

The program established by the County and approved by the Board to manage the quality and quantity of runoff resulting from land-disturbing activities and includes the County's local ordinance and requirements for plan review, inspection, enforcement, permit requirements, policies and guidelines, and technical materials.

VIRGINIA STORMWATER MANAGEMENT PROGRAM AUTHORITY or VSMP AUTHORITY

The County, which has adopted a stormwater management program that has been approved by the Board, is the VSMP Authority for issuance of VSMP authority permits, plan review, inspections, and enforcement of compliance with applicable laws and regulations, in the County and in the Towns of Middletown and Stephens City.

A program approved by the Board after September 13, 2011, to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in the Act and associated regulations, and evaluation consistent with the requirements of the Act and associated regulations.

VIRGINIA STORMWATER MANAGEMENT PROGRAM (VSMP) LAND DISTURBANCE or VSMP LAND-DISTURBING ACTIVITY

A manmade change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include:

- A. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1.
- B. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to

harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection **B** of § 10.1-1163 of the Code of Virginia.

- C. Single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures.
- D. Land-disturbing activities that disturb less than one acre of land area except for activities that are part of a larger common plan of development or sale that is one acre or greater of disturbance.
- E. Discharges to a sanitary sewer or a combined sewer system.
- F. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use.
- G. Routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original construction of the project. The paving of an existing road with a compacted or impervious surface and reestablishment of existing associated ditches and shoulders shall be deemed routine maintenance if performed in accordance with this subsection.
- H. 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 VESMP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of **§143-130**, including a registration statement that substantiates the occurrence of an emergency, is required within 30 days of commencing the land-disturbing activity.

VSMF CONSTRUCTION GENERAL PERMIT or CONSTRUCTION GENERAL PERMIT or CGP

The General Permit for Discharges of Stormwater from Construction Activities found in 9VAC25-880 of the Virginia Stormwater Management Program Regulations

WASTELOAD ALLOCATION or WASTELOAD or WLA

The portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

WATERSHED

A defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet.

In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

WETLANDS

Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

§143-125 Permits required; exemptions

- A. No person shall conduct a VESCP land-disturbing activity as defined in **§143-110** until the County land-disturbing permit has been obtained from the Administrator and maintains in good standing, a permit entitling such person and any contractor or agent of such person to conduct such activity. No permit involving land-disturbing activity will be issued without an approved erosion and sediment control plan by Frederick County and certification that the plan will be carried out by the designated Responsible Land Disturber. Prior to initiating grading or other on-site activities on any portion of a lot or parcel, all associated permits required by Federal, State, and local laws and regulations shall be obtained, and evidence of such permits submitted to the County.

Reference: § 62.1-44.15:55

- B. No person shall conduct a VSMP land-disturbing activity as defined in **§143-110** until a Frederick County land-disturbing permit as required in Subsection A and a VSMP authority permit has been obtained from the Administrator and maintains in good standing, a permit entitling such person and any contractor or agent of such person to conduct such activity. No permit involving a VSMP land-disturbing activity will be issued without a stormwater management plan approved by the County.

Reference: § 62.1-44.15:34. A

§143-130 Permit application

- A. Prior to issuance of a Frederick County land-disturbing permit for a VESCP land-disturbing activity, the following items must be submitted in accordance with the provisions of this chapter and approved:
1. Completed Frederick County land-disturbing permit application;
 2. The approved erosion and sediment control plan or an executed agreement in lieu of an erosion and sediment control plan;
 3. The performance bond(s) in compliance with **§143-240**;
 4. The applicable permit fee;

5. Completed land disturbance permit fee calculation form;
 6. All applicable outside agency approvals; and
 7. Copies of all applicable local, state, and federal permits.
- B. Prior to issuance of a Frederick County VSMP permit for a VSMP land-disturbing activity the following items must be submitted in accordance with the provisions of this chapter and approved:
1. The requirements of a land-disturbing permit application of Subsection A;
 2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements applicable to a VESMP land-disturbing activity;
 3. A stormwater management plan or an executed agreement in lieu of a plan that complies with Virginia stormwater requirements and the County stormwater requirements as outlined in this regulation;
 4. A VESMP Authority permit application/registration statement if such statement is required. A person shall not conduct any land-disturbing activity until he has submitted a permit application to the VESMP authority that includes a state VESMP permit statement if such statement is required. A registration statement is not required for a detached single-family home construction within or outside of a common plan of development or sale, but such projects must adhere to the requirements of the general permit; (§62.1-44.15:28.8)
 5. All applicable fees
 6. Evidence of coverage under the state general permit for discharges from construction activities through the state electronic database; and
 7. BMP Maintenance Agreement

Reference: 9VAC25-875-500; 9VAC25-875-510; 9VAC25-875-530; 9VAC25-875-535; 9VAC25-875-1290, et seq.; 62.1-44.15:34

- C. Prior to issuing coverage under an existing VSMP Authority permit for a land-disturbing activity within a common plan of development, the following items must be addressed:
1. The requirements of a Frederick County land-disturbing permit application of Subsection A;

2. A Stormwater Pollution Prevention Plan (SWPPP) to include all required elements applicable to a VSMP and disturbing activity, or when the area of disturbance is less than one acre, a SWPPP Template and a BMP Implementation Plan consistent with the BMP performance goals of the common plan of development; and
 3. A stormwater management plan that complies with Virginia stormwater requirements and the County stormwater requirements as outlined in this regulation.
- D. Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation and submission of plans, obtaining approval of the required plans, and obtaining all required permits shall be the responsibility of the owner of the land.

Reference: §62.1-44.15.34; 9VAC25-875-500; 9VAC25-875-510;

§143-145 Applicable design standards, specifications and methods

- A. The standards contained within the Virginia Erosion and Stormwater Management Regulation (VESMR), the Virginia Stormwater Management Handbook (VSMH) (latest version), and any additional guidance provided by the VESMP Authority are to be used by the applicant in the preparation and submission of an erosion and sediment control plan, and by the VESMP Authority in considering the adequacy of a plan submittal. When the standards vary between the publications, the state regulations shall take precedence unless otherwise noted in this chapter.
- B. The latest approved version of BMPs found on the Virginia Stormwater BMP Clearinghouse Website or the Virginia DEQ website shall be utilized to effectively reduce the pollutant load and runoff volume as required in this chapter in accordance with the Virginia Runoff Reduction Method.

Reference: 9VAC25-875-590

- C. The erosion and sediment control plan and stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface run-off.

Reference: 9VAC25-875-510

- D. Proposed residential, commercial, or industrial subdivisions shall apply these stormwater management criteria to the development project as a whole. Individual lots or parcels shall not be considered separate development projects, but rather the entire subdivision shall be considered a single development project. Hydrologic parameters shall reflect the ultimate development and shall be used in all engineering calculations. Implementation of the plan may be phased or carried out by individual or separate applicants as referenced in **§143-130.C**.

E. Unless otherwise specified, the following shall apply to the hydrologic computations of this section:

1. The prescribed design storms are the 1-year, 2-year, 10-year and 100-year 24-hour storms using the site-specific rainfall precipitation frequency data recommended by the U.S. National Oceanic and Atmospheric Administration (NOAA) Atlas 14 and provided in the VA SWM Handbook.
2. All hydrologic analyses shall be based on the existing watershed characteristics and how the ultimate development condition of the subject project will be addressed.
3. The U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) synthetic 24-hour rainfall distribution and models, including, but not limited to TR-55 and TR-20, hydrologic and hydraulic methods developed by the U.S. Army Corps of Engineers, or other NRCS standard hydrologic and hydraulic methods, shall be used to conduct the analyses described in this part.
4. For purposes of computing predevelopment runoff, all pervious lands on the site shall be assumed to be in good hydrologic condition in accordance with the U.S. Department of Agriculture's Natural Resources Conservation Service (NRCS) standards, regardless of conditions existing at the time of computation.
5. Pre-development and post-development runoff characteristics and site hydrology shall be verified by site inspections, topographic surveys, available soil mapping or studies, and calculations consistent with good engineering practices. Guidance provided in the Virginia Stormwater Management Handbook and by the Virginia Stormwater BMP Clearinghouse shall be considered appropriate practices.

Reference: 9VAC25-875-600; 9VAC25-875-620

6. All proposed sediment control or stormwater impounding structures shall be designed in accordance with State standards.

Reference: 9VAC25-875-650

§143-148 Grandfathering provisions

- A. Any VESMP land-disturbing activity shall be considered grandfathered by the VESMP authority and shall be subject to the technical criteria of Article 4 (9VAC25-875-670 et seq.) of the regulations provided:
 1. 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 locality to be equivalent thereto (i) was approved by the locality prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the Part II C

technical criteria of this chapter, and (iv) 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;

2. A state permit has not been issued prior to July 1, 2014; and
 3. Land-disturbance did not commence prior to July 1, 2014.
- B. Locality, state, and federal projects shall be considered grandfathered by the VESMP authority and shall be subject to the technical criteria of Article 4 of this chapter provided:
1. 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;
 2. State permit has not been issued prior to July 1, 2014; and
 3. Land disturbance did not commence prior to July 1, 2014.
- C. Land disturbing activities grandfathered under Subsections **A** and **B** of this section shall remain subject to the technical criteria of Article 4 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 Board.
- D. 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 Article 4.
- E. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

Reference: 9VAC25-875-490, § 62.1-44.15:25, 62.1-44.15:28

§143-150 Stormwater pollution prevention plan components and applicability

For each of the following activities as may be relevant, a stormwater pollution prevention plan (SWPPP) shall contain the indicated components:

A. VESCP Activities:

1. General SWPPP requirements as described in **§143-155**;
2. An erosion and sediment control (ESC) plan or if single-family residential construction an agreement in lieu of an ESC plan as described in **§143-160**.

B. VESMP land-disturbing activities:

1. General SWPPP requirements as described in **§143-155**;
 2. An ESC plan or if single-family residential construction an agreement in lieu of an ESC plan as described in **§143-160**;
 3. A SWM plan as described in **§143-165**; and
 4. A PPP plan as described in **§143-175**.
- C. VESMP land-disturbing activities part of a larger Common Plan of Development shall include:
1. General SWPPP requirements as described in **§143-155**;
 2. An ESC plan or if single family residential construction an agreement in lieu of an ESC plan as described in **§143-160**;
 3. A SWM Plan as described in **§143-165**, or if less than 1 acre a BMP Implementation Plan or a completed SWPPP Template demonstrating compliance with all applicable elements of the approved SWPPP developed for the larger common plan of development.
- D. The requirements for a SWPPP as outlined in §9VAC25-875-500 shall be included with each plan submitted for review.

Reference: § 62.1-44.15:34; 9VAC25-875-500; 9VAC25-875-510; 9VAC25-875-520; 9VAC25-875-550; 9VAC-880-70 Part II.

§143-155 General stormwater pollution prevention plan (SWPPP) requirements

- A. In addition to the applicable components as provided in **§143-150**, a Stormwater Pollution Prevention Plan (SWPPP) shall include all items identified within the Virginia General VPDES Permit for Discharges of Stormwater Construction Activity (General Permit No.: VAR10).
- B. Prior to engaging in the activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of a qualified person to the Administrator. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in **§143-225**.

Reference: § 62.1-44.15:34 A, 62.1-44.15:55 B

- C. The SWPPP must be maintained at a central location on-site. If an on-site location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. The operator shall make SWPPP's and all updates available upon request to County personnel.

Reference: 9VAC25-875-500

§143-160 Erosion and sediment control (ESC) program and plan requirements

- A. As stated in **§143-150**, Frederick County Public Works Department will be the program authority to operate the County's Erosion and Sediment Control Program. Pursuant to §62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer. Inspections of land-disturbing activities shall be conducted by a certified inspector. The erosion control program of the County shall contain a certified program administrator, a certified plan reviewer, and a certified inspector, who may be the same person;
- B. As required in **§143-150**, an erosion and sediment control plan shall be developed and referenced into the SWPPP where a SWPPP is required. The erosion and sediment control plan shall not be considered approved until reviewed by a certified plan reviewer. When the plan is determined to be inadequate, written notice of disapproval stating the specific reasons for disapproval shall be communicated to the applicant within 45 days. The notice shall specify such modifications, terms and conditions that will permit approval of the plan. If no action is taken by the County within 45 days, the plan shall be deemed approved, and the person authorized to proceed with the proposed activity.
- C. The erosion and sediment control plan shall be designed to control stormwater volume and velocity within the site to minimize soil erosion and to minimize sediment discharges from the site by incorporating all the minimum standards as outlined in 9VAC25-875-560, incorporate all requirements for flow rate capacity and velocity requirements as outlined in section 62.1-44.15:52.A of the Code of Virginia and incorporating the following performance goals to the maximum extent practicable:
 - 1. The area of land disturbance at any one time shall be the minimum necessary to install and/or construct the proposed site improvements;
 - 2. The installation and/or construction of the proposed site improvements shall be phased to limit the duration of exposed soils to the minimum time needed to construct and/or install the improvements in the immediate vicinity of the disturbance;
 - 3. The disturbance and/or compaction of the existing native soils shall be minimized by directing construction traffic, material stockpiling, and other activities to only those areas of the site that are designated for proposed infrastructure (buildings, roads, parking areas, etc.);

4. Disturbance of slopes 15% or steeper shall be avoided to the maximum extent practicable given the proposed site improvements. When disturbance of steep slopes is unavoidable, or the resulting grade of exposed soil is 15% or greater, the area shall be stabilized immediately with an approved soil stabilization measure;
5. Existing topsoil shall be preserved to the maximum extent practical;
6. The selection and design of erosion and sediment controls shall be based on the expected frequency, intensity, and duration of precipitation, and the corresponding expected volume of runoff and sediment erosion, sedimentation, and transport during the land-disturbing activity:
 - a. The volume and peak flow rate of runoff from the construction site should be estimated for the 2-year and/or 10-year design storms as required for the individual controls being considered using accepted NRCS hydrologic methods as described in the Virginia Stormwater Management Handbook, latest version; and
 - b. The expected volume of sediment erosion, sedimentation, and transport during activities should be estimated considering the surface area, length, and slope of exposed soil, the soil horizons exposed by grading activities, and the range of soil particle sizes expected to be present.
7. Provide 50-foot natural vegetated buffers around surface waters, and direct stormwater to vegetated areas where feasible. Where infeasible, alternate practices that remove or filter sediment and maximize stormwater infiltration may be approved by the County in accordance with State standards;
8. Sediment basins and traps, when used in accordance with the requirements of the Virginia Stormwater Management Handbook, shall incorporate an outlet structure that discharges from the surface (i.e., above the permanent pool or wet storage water surface elevation).

Reference: 9VAC25-880-70 Part II.B.2; 9VAC25-875-560

- D. When the land-disturbing activity is part of a larger common plan of development, the ESC plan shall demonstrate compliance with the approved SWPPP for the larger common plan of development, and shall contain the following information and/or statements demonstrating compliance with the minimum standards of the erosion and sediment control regulations of the Board (9VAC25-875-560):
 1. Compliance with the water quantity requirements of §62.1-44 et. seq. of the Code of Virginia shall be deemed to satisfy the requirements of 9VAC25-875-560(19) (Minimum Standard 19 of the Virginia Erosion and Stormwater Management Regulation);

2. The location, dimensions, and other information as required ensuring the proper construction and maintenance of all temporary erosion and sediment controls necessary to comply with the provisions of this chapter;
3. Calculations for sediment traps, basins, outlet protection, etc. as applicable;
4. A sequence of construction and clear delineation of the initial areas of land disturbance necessary for installation of the initial erosion and sediment control measures such as earthen dams, dikes, and diversions. The areas of initial land-disturbance shall be the minimum necessary for installation of the initial erosion and sediment control measures and the delineation should include all areas necessary for such installation, including stockpiles, borrow areas, and staging areas. The sequence should also include the stabilization of these areas immediately upon reaching final grade.
5. Clear delineation of the proposed areas of land disturbance and those areas to be protected from construction activity and traffic, including the following:
 - a. Minimize the disturbance of slopes 15% or greater; and
 - b. Minimize soil compaction and, unless infeasible, preserve topsoil.
6. Requirement that final stabilization of disturbed areas shall be initiated immediately upon reaching final grade on any portion of the site, and that temporary stabilization shall be initiated immediately upon areas that may not be at final grade but will remain dormant for longer than 14 days.
7. A comprehensive drainage plan including:
 - a. The existing and proposed drainage patterns on the site;
 - b. All contributing drainage areas to permanent stormwater practices and temporary sediment controls;
 - c. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - d. Land cover such as forest meadow, and other vegetative areas;
 - e. Current land use including existing structures, roads, and locations of known utilities and easements;
 - f. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

- g. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
 - h. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to forest or reforestation, buffers, impervious cover, managed turf (lawns), and easements.
8. The location of any stormwater management practices and sequence of construction.
 9. Temporary natural vegetated buffers in accordance with the requirements of the VESMP Construction General Permit. These buffers shall be delineated on the ESC Plan and protected with accepted signage, safety fence, or other barrier.
- E. In lieu of the plan described in Subsections **A,B,** and **C** of this section, single-family residential construction that is not part of a larger common plan of development, including additions or modifications to an existing single-family detached residential structure, may execute an ESC Agreement in Lieu of an Erosion and Sediment Control Plan with the Administrator.
 - F. In lieu of the plan described in Subsections **A,B,** and **C** of this section, single-family residential construction that disturbs less than 1 acre and part of a larger common plan of development, may execute a SWPPP Template with the Administrator that demonstrates compliance with the practices and strategies identified for the lot or parcel in the larger common plan of development SWPPP.
 - G. Regarding the erosion and sediment control minimum standards as outlined in 9VAC25-875-560, the following more stringent changes are applied within the County:
 1. Subsection 6b. Surface run-off from disturbed areas that are comprised of flow from drainage areas greater than or equal to three acres shall be controlled by a sediment basin. The minimum storage capacity of a sediment basin shall be 134 cubic yards per acre of drainage area. The outfall system shall, at a minimum, maintain the structural integrity of the basin during a 100-year-storm of twenty-four-hour duration. Runoff coefficients used in runoff calculations shall correspond to a bare earth condition or those expected to exist while the sediment basin is utilized.
 2. Subsection 14, regulation of watercourse crossing - All applicable federal, state and local regulations pertaining to working in or crossing live watercourses shall be met. Prior to obtaining a land-disturbance permit, copies of all applicable environmental permits, including but not limited to wetland disturbance, stream crossing, stormwater discharge permits, shall be submitted with the application.
 3. Subsection 17, vehicular sediment tracking - Where construction vehicle access routes intersect paved or public roads, provisions shall be made to minimize the transport of sediment by vehicular tracking onto paved or public road surface; the road surface shall be cleaned thoroughly at the end of each day. Sediment shall be

removed from roads by shoveling or sweeping and transported to a sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner. This provision shall apply to individual development lots as well as to larger land-disturbing activities.

4. In subdivisions, the owner/developer of the subdivision shall be responsible for compliance with the standard set forth in Subsection **G(3)** until the streets are taken into the Virginia Department of Transportation's Secondary Road System for maintenance, and the plan submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto subdivision streets does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction. In addition, if individual lots or sections in a subdivision are being developed by a different owner, such owner shall be jointly and severally responsible with the owner/developer of the subdivision for achieving compliance with this minimum standard, and the erosion and sediment control plan, or "agreement in lieu of a plan," submitted for approval shall include a detailed plan or narrative to ensure transport of sediment onto the applicable roads does not occur during any phase of construction, including but not limited to construction of all infrastructure, utilities, and building construction.
5. To assure proper stormwater drainage and site stabilization, the following policies are hereby adopted concerning all development. Prior to release of building permits, the following infrastructure shall be completed and stabilized within the subdivision, subsection or phase as shown on the approved plan:
 - a. Stormwater conveyance systems, including but not limited to culverts, road surface, curb and gutter, stormwater structures, drainage swales and ditches, channel linings and all cleared areas shall be stabilized, etc.
 - b. Submittal of a certified as-built plan of the subdivision, subsection or phase, which includes but is not limited to stormwater conveyance systems, curb and gutter, drainage swales and ditches, stormwater/sediment ponds, graded areas, etc. A letter from the engineer-of-record shall be included with the as-built plan which states that the subdivision has been constructed in accordance with the approved plan.
 - c. A proposed overall lot grading plan is required by Frederick County prior to the release of building permit(s) for subdivisions. This plan shall meet the intent of the original site plan submitted by the developer. It is required that the developer provide the builder/owner a copy of the original engineered site grading plan for the particular subdivision.
 - d. It will be necessary to submit a certified as-built survey for all lots on which proposed lot grading plans were required. This certified as-built survey shall indicate the following: properly annotated boundary lines; setback lines; house footprint; offsets to house; existing grading; spot shots as necessary to show

positive drainage; spot shots at ten (10) foot intervals along all drainage swale with less than a 3% slope; actual driveway location; actual floor elevation to include basement, first floor and garage; and erosion and sediment controls, if required. The as-built plan shall be accompanied by a document prepared by a professional engineer or a certified land surveyor certifying that the as-built conditions meet the intent of the approved site grading plan. The certified as-built survey shall be submitted to the Public Works Department prior to release of the final certificate of occupancy.

6. Before adopting or revising this chapter, the County shall give due notice and conduct a public hearing on the proposed or revised regulations, except that a public hearing shall not be required when the County is amending its program to conform to revisions in the state program. However, a public hearing shall be held if the County proposes or revises regulations that are more stringent than the state program.
7. The program and regulations provided for in this chapter shall be made available for public inspection at the office of the Department of Public Works.

§143-165 Stormwater management (SWM) plan requirements

- A. As required in **§143-150**, a stormwater management plan shall be developed and referenced into the SWPPP.
- B. In addition to the plan requirements outlined in **§143-155** and **§143-160**, the stormwater management plan shall include the following:
 1. A general description of the proposed stormwater management facilities, including:
 - a. Information on the type of and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features if present, and pre-development and post-development drainage areas.
 - b. Contact information including the name, address, telephone number, and email address of the owner and the tax map identification number and parcel number of the property or properties affected.
 - c. Narrative that includes a description of current site conditions and final site conditions or if allowed by the County, the information provided and documented during the review process that addresses the current 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 proposed stormwater management facilities, including

- 1) Detailed narrative on the conversion to a long-term stormwater management facility if the facility was used as a temporary ESC measure;
 - 2) The type of facilities
 - 3) Location, including geographic coordinates
 - 4) Acres treated
 - 5) The surface waters or karst features into which the facility will discharge
- f. Hydrologic/hydraulic computations, including runoff characteristics.
- g. Documentation/calculations verifying compliance with water quality and quantity requirements of this chapter.
- h. Map or maps of site that depicts topography of the site and includes:
- 1) All contributing drainage areas.
 - 2) Existing streams, ponds, culverts, ditches, wetlands, other water bodies, floodplains.
 - 3) Soil types, geologic formations if karst features are present in the area, forest cover, other vegetative areas.
 - 4) Current land use including existing structures, roads, locations of known utilities and easements.
 - 5) Sufficient information on adjoining parcels to assess impacts of stormwater from the site on these parcels.
 - 6) Limits of clearing and grading, proposed drainage patterns on the site.
 - 7) Proposed buildings, roads, parking areas, utilities, stormwater management facilities.
 - 8) Proposed land use with tabulation of percentage of surface area to be adapted to various uses, including planned locations of utilities, roads and easements.
- i. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria to the part to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities.
- j. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.

Reference: 9VAC25-875-510

2. All necessary documentation and calculations supporting the design and construction of the proposed stormwater management structures, including sufficient details such as cross sections, profiles, dimensions, grades, and other information as needed to ensure that the BMPs are built in accordance with the approved plans and the BMP Design Specifications of the Virginia Stormwater Management Handbook.
 3. Runoff Reduction Method compliance spreadsheet summary sheet.
 4. A landscaping plan prepared by an individual familiar with the selection of appropriate vegetation for the particular BMP (emergent and upland vegetation for wetlands, woody and/or herbaceous vegetative stabilization and management techniques to be used within and adjacent to the stormwater management facilities, etc.). The landscaping plan must also describe the maintenance of vegetation at the site and what practices should be employed to ensure that adequate vegetative cover is preserved.
 5. Identification of all easements provided for inspection and maintenance of stormwater management facilities in accordance with specifications in the Virginia Stormwater Management Handbook and the County requirements.
 6. When applicable, a copy of the Frederick County SWM BMP operation and maintenance agreement to be recorded in the local land records prior to plan approval.
 7. When stormwater facilities are proposed on individual residential lots, a copy of the proposed residential lot BMP inspection and maintenance agreement to be signed by the property owner upon settlement. This must be submitted prior to plan approval.
 8. If an operator intends to meet the requirements established in 9VAC25-875-580 or 9VAC25-875-600 through the use of offsite compliance options, where applicable, then a letter of availability from the offsite provider must be included
- C. Stormwater management (SWM) plans shall demonstrate compliance with the following:
1. Stormwater runoff quality and runoff volume reduction criteria for new development.
Reference: 9VAC25-875-580
 2. Stormwater runoff quality criteria for development on prior developed lands.
Reference: 9VAC25-875-580
 3. Channel protection criteria.

Reference: 9VAC25-875-600

4. Flood protection criteria.

Reference: 9VAC25-875-600

5. Requirements for identifying, evaluating, and addressing increased volumes of sheet flow resulting from pervious or disconnected impervious areas or from physical spreading of concentrated flow through level spreaders.

Reference: 9VAC25-875-600

- D. Prior to release of the stormwater plan surety bond, two sets of the construction record drawing or as-built of permanent stormwater management facilities, also referred to as “as-built plans,” in accordance with County requirements shall be submitted to the Administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the State pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1. of the Code of Virginia. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia, stating that to the best of the professional's knowledge, the construction record drawing shows all adjustments and revisions to the stormwater management plan made during construction and serve as a permanent record of the actual location of all constructed elements.

Reference: 9VAC25-875-535

- E. Single family residential construction that is less than one acre of disturbance and part of a larger common plan of development may execute and implement a BMP Implementation Plan as part of the SWPPP Template to demonstrate compliance with the practices and strategies identified in the larger common plan of development SWPPP.
- F. Stormwater management facility maintenance agreements. Maintenance of all stormwater management facilities shall be ensured through the creation of a formal maintenance agreement that must be approved by the Administrator and recorded in the land record prior to issuance of a permit and contain the following provisions:

1. A copy of the County BMP operation and maintenance agreement proposed for recordation in the local land records prior to plan approval to be signed by the property owner upon settlement shall be submitted with the plans.

Reference: 9VAC25-875-535.

2. Responsibility for the operation and maintenance of stormwater management facilities shall remain with the property owner or an owner's association and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the responsibility to successors in title.

Reference: 9VAC25-875-535.

3. Maintenance agreements shall be in accordance with the County requirements (BMP Inspection and Maintenance Program) and provide for all necessary access for inspections.

Reference: §62.1-44.15:39; 9VAC25-875-535.

4. Except as provided in Subsection **F(5)** below, maintenance agreements shall be enforceable (by the Administrator).

Reference: 9VAC25-875-535.

5. Individual on-lot stormwater facilities that are designed to primarily manage the runoff from the individual residential lot on which they are located require a County residential lot BMP inspection and maintenance agreement acknowledging the presence, purpose, location, and basic maintenance requirements for the particular BMPs in accordance with County requirements.

Reference: 9VAC25-875-535

6. 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 State pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.
7. Stormwater management plans for residential, commercial or industrial subdivisions are approved and govern the development of individual parcels within that plan, throughout the development life even if ownership changes.

Reference: §62.1-44.15:28.7

§143-175 Pollution prevention plan (PPP)

- A. A pollution prevention plan (PPP) is required for all VESMP Activities as required in **§143-125**, and shall be developed for incorporation into the SWPPP.
- B. The PPP shall be developed in accordance with the Virginia Stormwater Management Handbook to minimize the discharge of pollutants and the exposure of materials to stormwater, and prohibit illicit discharges from construction activities.
- C. The PPP shall be implemented and updated as outlined in **§143-205.C** and the Virginia Stormwater Management Handbook as necessary throughout all phases of the land-disturbing activity to implement appropriate pollution prevention measures applicable to construction activities.

§143-180 Prohibitions Illicit Discharges

- A. It shall be unlawful for any person not specifically authorized by the Administrator to do so, to remove a manhole cover or catch basin or grate inlet cover or to make any connections with, or any opening into, use, alter, disturb, or otherwise interfere with any manhole, catch basin, grate, inlet or other structure which is a part of the public storm drainage system.
- B. It shall be unlawful for any person to deposit into any open watercourse or gutter or pipe or other drainage structure, any rocks, logs, dirt, paper, branches, leaves, grass or any other material capable of causing a stoppage or disrupting the flow of storm or rainwater or otherwise adversely affecting the hydraulic capacity of the watercourse or drainage structure.
- C. It shall be unlawful to cause or allow illicit discharges to the storm drainage system or to state waters. Subject to the provisions of paragraph (d) below, activities shall not be considered illicit discharge as outlined in 9VAC25-890-20.
- D. The prohibition in (c) above shall not apply to any non-stormwater discharge permitted under a VPDES or VESMP permit or waiver, provided that the discharge is in full compliance with all requirements of the VPDES or VESMP permit as well as any other applicable laws or regulations pertaining to the discharge.
- E. It shall be unlawful to connect, or cause or allow to be connected, to the storm drainage system or state waters, without a VPDES or VESMP permit, any structure that conveys any liquid other than stormwater or discharges listed in paragraph (c) of this section, including but not limited to pipes, drains, sanitary sewer lines, washing machine drains, or floor drains. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of the connection.
- F. If any activity listed in paragraph (c) of this section is found by the Administrator to be a source of pollution to state waters, the discharge shall be considered illicit, and the Administrator shall serve a written notice in accordance with this section.
- G. The Administrator shall have the authority to inspect and monitor discharges and sources of potential discharge to the storm drainage system to ensure compliance with this article, including the authority to enter upon private property to inspect or monitor such discharges or sources of potential discharge. The Administrator shall also have the authority to initiate enforcement action in accordance with section 143.225.B.

§143-185 Review and approval of plans

- A. Upon receipt of a plan for a permit and accompanying plans as required by **§143-150**, the Administrator shall determine the completeness of the application and notify the applicant within 15 calendar days if the submittal is considered incomplete.
- B. Once the applicant has been notified of a complete submittal, the Administrator shall have an additional 60 calendar days from the date of the communication for the review of the plans to determine compliance with the requirements of this ordinance, and to communicate to the applicant the approval or disapproval of the plans.
- C. If the plans are not approved, the reasons for not approving the plans shall be provided in writing to the applicant.
- D. The Administrator shall review within 45 calendar days of the date of resubmission any plans that been previously disapproved.
- E. Unless otherwise indicated in the application, electronic communication shall be considered communication in writing.

Reference: §62.1-44.15:55B; §62.1-44.15:34A; 9VAC25-875-110

§143-190 Preconstruction meeting required

No land disturbing activities shall commence until a preconstruction meeting between the Administrator and the applicant, and the individual responsible for carrying out the plan has been conducted. The applicant shall notify the Administrator in advance to schedule the meeting on-site.

§143-195 Issuance, time limit, modification, maintenance, transfer and/or termination of Frederick County permit and the VESMP Authority Permit

- A. Permit issuance. Once the requirements for obtaining a County land-disturbing permit and coverage under the state general permit for discharges from construction activity (if applicable) have been met, including the receipt or verification of payment of all required permit fees in accordance with the fee schedule of **§143-235**, the Administrator will issue a Frederick County land disturbance permit and a VESMP Authority permit. Prior to the initiation of an application, by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50%, for a permit under this chapter, all delinquent real estate taxes and any other charges that constitute a lien on the subject property that are owed to the County and have been properly assessed against the subject property must be paid, unless otherwise authorized by the Treasurer.
- B. No transfer, assignment, or sale of the rights granted by virtue of a County land-disturbing permit shall be made unless a written notice of transfer and corresponding permit modification fee is filed with the Administrator and the transferee certifies

agreement to comply with all obligations and conditions of the permit. The Administrator may require modification or revocation and reissuance of the VESMP authority permit to change the name of the permittee and incorporate such other requirements as may be necessary for the transfer.

- C. If land-disturbing activity has not commenced within 180 days of land-disturbing activity or VESMP authority permit issuance or ceases for more than 180 days, the Administrator may evaluate the existing approved ESC plan to determine whether the plan still satisfies local and state erosion and sediment control criteria and to verify that all design factors are still valid. If the previously filed ESC plan is determined to be inadequate a modified plan shall be submitted and approved prior to the resumption of land-disturbing activity.

Reference: 9VAC25-875-240

- D. VESMP Authority Permits are effective for a fixed permit cycle of 5 years. Activities requiring a VESMP permit may obtain coverage at any time during the 5-year permit cycle and must be renewed if the permit has not been terminated prior to the end of the cycle. The annual permit maintenance fees in §143-235 apply until the permit coverage is terminated or renewed.
- E. Land-disturbing activities for which VESMP Permit coverage was issued between July 1, 2014 and June 30, 2019 permit cycle may remain subject to the technical criteria of Part II B of the Virginia Stormwater Regulations for two additional permit cycles provided coverage under the original VESMP Permit is maintained. After two permit cycles have passed, or should the original VESMP Permit coverage not be maintained, portions of the project not under construction shall become subject to any new technical criteria adopted by the VESMP Authority after the original VESMP Permit coverage was issued.
- F. Land-disturbing activities for which VESMP Permit coverage was issued between July 1, 2014 and June 30, 2019 permit cycle may elect to modify the permit by paying the appropriate permit modification fee and request approval for compliance with the technical criteria of Part II B for any remaining portions of the project.

Reference: §62.1-44.15:24; 9VAC25-875-480.

§143-200 Variances/exceptions

- A. Frederick County may grant exceptions or modify the ESC requirements of activities if they are deemed inappropriate or too restrictive for site conditions by granting a variance. A variance may be granted under the following conditions:
 - 1. At the time of plan submission, an applicant may request a variance from the requirements of an erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed shall be documented in the plan.

2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the Administrator. The Administrator shall respond in writing either approving or disapproving such a request. If the Administrator does not approve a variance within 10 days of receipt of the request, the request shall be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
 3. The Administrator shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- B. The Administrator may grant exceptions to the Technical Criteria of **§143-165**, Stormwater management (SWM) plan requirements. An exception may be granted, provided that:
1. The exception is the minimum necessary to afford relief;
 2. Reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the intent of the VESMA and this chapter is preserved;
 3. Granting the exception will not confer any special privileges that are denied in other similar circumstances;
 4. Exception requests are not based upon conditions or circumstances that are self-imposed or self-created; and
 5. Economic hardship alone is not sufficient reason to grant an exception from these requirements.
- C. Under no circumstance shall an exception to the requirement that the land-disturbing activity obtain required VESMP permits be granted, nor shall the use of a BMP not found through the Virginia Stormwater BMP Clearinghouse be approved.
- D. Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options available as described in **§143-165B(8)** have been considered and found not available.
- E. A record of all exceptions granted shall be maintained by the County in accordance with 9VAC25-875-180

Reference: 9VAC25-875-170; 9VAC25-875-180

§143-205 Amendments to approved plans

- A. The County may require changes to an approved erosion and sediment control plan and/or stormwater management plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
2. Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan consistent with the requirements of the Act are agreed to by the VESMP authority and the owner

Reference: 9VAC25-875-110

- B. Amendments to an approved SWPPP may be required in order to reflect changes in the implementation of an approved ESC or SWM Plan. In addition to the requirements of Subsection A of this section, the site operator shall document the implementation of the provisions of the SWPPP as follows:
1. The operator shall amend the SWPPP whenever there is a change in design, construction, operation, or maintenance that may have a significant effect on the discharge of pollutants from the construction activity and that has not been previously addressed in the SWPPP.
 2. The SWPPP must be amended if during inspections or investigations by the operator's qualified personnel, or by the Administrator, state or federal officials, it is determined that the existing control measures are ineffective in minimizing pollutants in stormwater discharges from the construction site.
 3. Revisions to the SWPPP shall include additional or modified control measures designed and implemented to correct problems identified. If approval by the Administrator is necessary for the control measure, revisions to the SWPPP shall be completed no later than five business days following approval. Implementation of these additional or modified control measures shall be accomplished as described in Part II H of the general permit.
 4. Amendments, modifications, or updates to the SWPPP shall be signed in accordance with Part III K 2 of the general permit and shall include the required certification in accordance with Part III K 4 of the general permit. Changes to any component of an approved SWPPP with VESMP Permit coverage that result in changes to stormwater management plans or require additional review by the Administrator shall be subject to permit modification fees set out in **§143-235**.

Reference: 9VAC25-880-70 Part II C. General permit.

§143-210 Monitoring and inspections during activities

- A. Erosion and sediment control

1. The responsible land disturber, as provided by §62.1-44.15:52, shall oversee and is responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The County may require the person responsible for carrying out the plan to monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
2. The County shall periodically inspect the land-disturbing activity in accordance with 9VAC25-875-140 of the Virginia Erosion and Stormwater Management Regulation to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The application for a permit shall include a provision for appropriate agents and employees of the County, at reasonable times, to go upon the property on which permission has been sought to conduct land-disturbing activities and to monitor such activities. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.
 - a. If the Administrator determines that there is a failure to comply with the plan, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, by electronic mail to the address specified in the permit application, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.
 - b. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the specified time, the permit may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this chapter.

Reference: § 62.1-44.15:37; § 62.1-44.15:58

3. Upon issuance of an inspection report denoting a violation of Code of Virginia §62.1-44.15:55, the Administrator may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the Administrator may issue an order requiring that all of the land-disturbing activities be stopped until an approved plan or any required permits are obtained.

Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of

the Commonwealth, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The order shall be served in the same manner as a notice to comply and shall remain in effect for a period of seven days from the date of service pending application by the owner or permit holder for appropriate relief to the Circuit Court of the County. Said order shall be posted on the site where the disturbance is occurring and shall remain in effect until permits and plan approvals are secured.

The owner may appeal the issuance of an order to the Circuit Court of the County.

Any person violating or failing, neglecting or refusing to obey an order issued by the Administrator may be compelled in a proceeding instituted in the Circuit Court of the County to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.

Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.

Nothing in this section shall prevent the Administrator from taking any other action authorized by this chapter.

Reference: § 62.1-44.15:37; § 62.1-44.15:58

B. Stormwater

1. The VESMP Authority will inspect all regulated activities to ensure compliance with the approved ESC Plan in accordance with the County and state requirements. The owner, permittee or person responsible for carrying out the plan or agreement may be given notice of the inspection.

Reference §62.1-44.15:58.

2. The County requires that stormwater management facilities be inspected, and the construction of such facilities are certified in accordance with Subsection **B(4)** of **§143-210**. The VESMP Authority may also inspect the construction of permanent stormwater management facilities at critical stages of construction and in accordance with the Virginia BMP Design Specifications to ensure compliance with the approved plans.

Reference §62.1-44.15:37.

3. The right-of-entry for the VESMP Authority to conduct such inspections shall be expressly reserved in the permit. The permit holder, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.

Reference §62.1-44.15:39, Right of entry

4. The County will accept the submittal of inspection reports certifying that the stormwater management facilities are being constructed in accordance with the approved plan conducted by:
 - a) A person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia;
 - b) A person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or
 - c) A person who holds a certificate of competence in stormwater inspection from the Board.

Reference: 9VAC25-875-140

5. The VESMP Authority will inspect all regulated activities covered by a VESMP authority permit to ensure the operator is conducting and documenting the operator inspections as required by the County and is appropriately updating the PPP as required by the County. The owner, permittee or person responsible for carrying out the plan or agreement may be given notice of the inspection.

Reference: Subsection **B(1), (2), and (3)** above: 9VAC25-875-140

6. All activities covered by a VESMP Permit shall be inspected by the operator in accordance with the requirements of the County. The operator shall maintain records of inspections and maintenance to determine whether the measures required in the ESC plan are effective in controlling erosion and sedimentation and to ensure compliance with the approved plan. Records shall be made available to the Administrator or the County inspector upon request.

Reference: 9VAC25-880-70

7. Prior to the release of any performance bonds or termination of the VESMP Authority Permit, the applicant shall submit the required as-built drawings for the stormwater management facilities. The site shall be surveyed to determine actual field conditions, and the approved plans as annotated to reflect actual field conditions shall constitute the as-built drawing. As-built drawings shall include the following:
 - a. Storm sewer systems.

- 1) The general location of all drainage structures.
- 2) The storm structure top and all pipe invert elevations including end sections.
- 3) Storm pipe size, material and percent grade between inverts from structure to structure.
- 4) Spot elevations of the invert of all man-made ditches at fifty-foot intervals.
- 5) Extent of all riprap outfall protection.
- b. Topographic survey of all constructed SWM/BMP facilities.
- c. The location, size and/or material of all required BMP elements including but not limited to cleanouts, observation wells, overflow structures, gravel diaphragms, and flow spreaders.
- d. Confirmation of the volume provided in all ponds and water quality structures. Deviations from the approved plans shall require new routings to confirm that the ponds will function as designed.
- e. For residential projects, topographic survey of all disturbed common space areas to confirm that all slopes and swales are properly placed and that all drainage patterns have been established in accordance with the grading plan.
- f. Detailed records of any variations of the work from the approved plans.

Reference: 9VAC25-875-535

8. Reports; recordkeeping

- a) On a fiscal year basis (July 1 to June 30), the County shall report to the Department by October 1 of each year in a format provided by the Department. The information to be provided shall include the following:
 1. Information on each permanent stormwater management facility completed during the fiscal year to include type of stormwater management facility, geographic coordinates, acres treated, and the surface waters or karst features into which the stormwater management facility will discharge;
 2. Number and type of enforcement actions during the fiscal year; and
 3. Number of exceptions granted during the fiscal year.
- b) A VESMP authority shall keep records in accordance with the following:
 1. Project records, including approved stormwater management plans, shall be kept for three years after state permit termination or project completion.
 2. Stormwater management facility inspection records shall be documented and retained for at least five years from the date of inspection.

3. Construction record drawings shall be maintained in perpetuity or until a stormwater management facility is removed.
4. All registration statements submitted in accordance with 9VAC25-875-530 shall be documented and retained for at least three years from the date of project completion or state permit termination.

Reference: 9VAC25-875-180

§143-215 Monitoring and inspections of permanent stormwater management facilities

- A. Owners of stormwater management facilities shall be responsible for conducting inspections and performing maintenance in accordance with the recorded stormwater BMP maintenance agreement as described in **§143-165** and in accordance with County requirements. Regarding individual residential lots, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of the Administrator that future maintenance of such facilities will be addressed through an enforceable mechanism at the discretion of the Administrator. Provisions for this are addressed in the Virginia Stormwater Management Handbook.
- B. If a recorded instrument is not required pursuant to section **§143-215.A**, the Administrator shall develop a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located. Such a strategy may include periodic inspections, homeowner outreach and education, or other methods targeted at promoting the long-term maintenance of such facilities. Such facilities shall not be subject to the requirement for an inspection to be conducted by the Administrator.

Reference: 9VAC25-875-130; 9VAC25-875-140

- C. The Administrator will ensure that permanent stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities according to the following:
 1. The Administrator shall track the five-year frequency comprehensive inspection report submittals as required by the recorded maintenance agreement and in accordance with County requirements. The Administrator or the Administrator's designee, not to include the owner, except as described below, shall conduct maintenance inspections at a minimum of once every 5 years for certain BMPs as defined by County requirements.
 2. The ~~Administrator~~ **Administrator** may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in

subsection A of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the code of Virginia; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the department.

3. The right-of-entry for the Administrator to conduct such inspections shall be expressly reserved in the maintenance agreements. The owner, or his duly designated representative, shall be afforded the opportunity to accompany the inspectors.

References: 9VAC25-875-140; § 62.1-44.15:39

- D. The Administrator shall notify the property owner or owner's association in writing in accordance with **§143-225B(1)** to the address as identified in the SWM BMP Inspection and Maintenance Agreement when a determination has been made that the stormwater management facility is in disrepair or is not functioning as intended. The notice shall specify the measures needed to comply with the approved maintenance plan and shall specify the time within which such measures shall be completed. If the responsible party fails to perform such maintenance and repair, the County shall have the authority to initiate enforcement action in accordance with **§143-225B(6)** and perform the work and recover the costs from the responsible party.

§143-225 Enforcement; violations and penalties

A. Erosion and sediment control.

1. Violators of this chapter shall be guilty of a Class I misdemeanor.
2. Any person who violates any provision of Va. Code §§ 62.1-44.15:34, 62.1-44.15:55 may, upon a finding of the District Court of the County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$1,000. Each day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same operative set of facts result in civil penalties which exceed a total of \$10,000, except that a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site shall not result in civil penalties which exceed a total of \$10,000. Any such civil penalties shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under Subsection A of §62.1-44.15:63.
3. The Administrator the owner or property which has sustained damage, or which is in imminent danger of being damaged, may apply to the Circuit Court of the County to enjoin a violation or a threatened violation of Va. Code §§ 62.1-44.15:34, 62.1-

44.15:55, without the necessity of showing that an adequate remedy at law does not exist.

However, an owner of property shall not apply for injunctive relief unless (i) he has notified in writing the person who has violated the local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

4. In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to the County in a civil action for damages.
5. Without limiting the remedies which may be obtained in this section, any person violating or failing, neglecting, or refusing to obey any injunction, mandamus or other remedy obtained pursuant to this section shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. A civil action for such violation or failure may be brought by the County.

Any civil penalties assessed by a court shall be paid into the treasury of the County, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

6. With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or condition of a permit or any provision of this ordinance, or order of the VESCP authority the County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under this section.
7. The Commonwealth's Attorney shall, upon request of the County, take legal action to enforce the provisions of this chapter.
8. Compliance with the provisions of this ordinance shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion, siltation or sedimentation that all requirements of law have been met, and the complaining party must show negligence in order to recover any damages.

B. Stormwater.

1. If, **the Administrator determines that there is a failure to comply with the conditions of this ordinance or determines there is an unauthorized discharge** or **if** during inspections at any stage of the land-disturbing activity, the Administrator determines that the operator has failed to comply with the approved

plan, including but not limited to failure to install or properly install stormwater BMPs or erosion and sediment controls, the Administrator shall serve a Notice to Comply upon the permittee or person responsible for carrying out the permit conditions as follows:

- a) Certified mail return receipt requested sent to the address specified by the owner or permittee in his application or plan certification; or
 - b) Electronic mail to the address specified in the permit application; or
 - c) Delivery at the site of the activities to the agent or employee supervising such activities.
2. The notice shall specify the measures necessary to comply with the plan or agreement in lieu of a plan and shall specify the time within which such measures shall be completed.
3. Stop Work Order.
 - a) If a permittee fails to comply with a notice to comply issued in accordance with Subsection **B (1)** within the time specified, the Administrator may issue an order requiring the owner, permittee, or person responsible for carrying out the approved plan, to cease all land-disturbing activities until the violation of the permit has ceased or the specified corrective actions have been taken. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the registration statement, by electronic mail to the address specified in the permit application, or by personal delivery by an agent of the VESMP authority or Department.
 - b) In addition to the cessation of all activities as described in Subsection **B(3)(a)** above, the permittee may also be subject to having the VESMP Authority permit revoked; and furthermore, he shall be deemed to be in violation of this ordinance and, upon conviction, shall be subject to the penalties as provided in the Code of Virginia or by this chapter.
 - c) Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in surface waters within the watersheds of the state, or where the activities have commenced without an approved plan, agreement in lieu of a plan or any required permits, such an order may be issued without regard to whether the owner or permittee has been issued a notice to comply.
4. If, at any stage of the activity, the VESMP Authority determines that the physical conditions on the site are not as stated or shown on the approved erosion and sediment control plan or stormwater management plan, or the County determines that the storm drainage system or stormwater management facility is inadequate

or not constructed as shown on the approved stormwater management final plan, the VESMP Authority may refuse to approve further work and the County may revoke existing permits or approvals until a revised stormwater management final plan has been submitted and approved.

5. Commencing activities without an approved plan or a permit.
 - a. If activities have commenced without an approved plan, agreement in lieu of a plan, or a VESMP Authority Permit where required, a stop-work order may be issued requiring that all activities be stopped until an approved plan, an agreement in lieu of a plan or any required permits are obtained.
 - b. The stop-work order shall remain in effect for a period of seven calendar days from the date of service pending application by the Administrator or alleged violator for appropriate relief to the Circuit Court of the jurisdiction wherein the violation is alleged to have occurred. If the alleged violator has not obtained an approved plan, agreement in lieu of a plan or any required permits within seven days from the date of service of the order, the Director may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan, agreement in lieu of a plan or any required permits have been obtained. The order shall be served upon the owner by registered or certified mail to the address specified in the permit application or the land records of the County or by electronic mail to the address specified in the permit application.
 - c. The owner may appeal the issuance of an order to the Circuit Court.
6. Maintenance of permanent stormwater facilities.
 - a. If during periodic inspections to ensure that stormwater management facilities are being adequately maintained as designed, the VESMP authority identifies operational deficiencies and/or determines that the owner of the stormwater management facility has failed to perform maintenance or conduct maintenance inspections in accordance with the recorded SWM BMP maintenance and inspection agreement, the VESMP Authority shall notify the person or organization responsible for carrying out the requirements of the agreement. The notice shall specify the deficiencies, the corrective actions required to restore the facility, and the time frame within which the corrective actions shall be completed.
 - b. If the individual or organization fails to comply with the notice within the time specified, the VESMP Authority may initiate informal and/or formal administrative enforcement procedures including but not limited to directives issued by the Board in accordance with §62.1-44.15:25, or civil penalties in accordance with this chapter and §62.1-44.15:48.

7. Any person violating or failing, neglecting, or refusing to obey any rule, regulation, ordinance, order, approved standard or specification, or any permit condition issued by the VESMP authority or any provisions of this chapter may be compelled in a proceeding instituted in any appropriate court by the VESMP authority to obey same and to comply therewith by injunction, mandamus, or other appropriate remedy. Nothing in this section shall prevent the VESMP authority from taking additional enforcement action permitted by state law.
8. Any person who violates any provision of this chapter or of any regulations or ordinances, or standards and specifications adopted or approved hereunder, including those adopted pursuant to a VESMP permit, or who fails, neglects, or refuses to comply with any order of the VESMP authority, the Department, the 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:
 - 1) No permit registration;
 - 2) No SWPPP;
 - 3) Incomplete SWPPP;
 - 4) SWPPP not available for review;
 - 5) Failure to install stormwater BMP or erosion and sediment controls;
 - 6) Stormwater BMPs improperly installed or maintained;
 - 7) Operational deficiencies;
 - 8) Failure to conduct required inspections;
 - 9) Incomplete, improper, or missed inspections;
 - 10) Discharges not in compliance with the requirements of the VESMP construction general permit; and
 - 11) No approved erosion and sediment control plan.
 - b. The Administrator 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 the economic benefit to the violator from noncompliance.
 - d. Any civil penalties assessed by a court because of a summons issued by the County shall be paid into the treasury of the County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the County and abating environmental pollution therein in such manner as the court may, by order, direct.
9. 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 County 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.

References: § 62.1-44.15:37; § 62.1-44.15:48; § 62.1-44.15:63; § 62.1-44.15:64

§143-230 Hearings

- A. Any permit applicant, permittee, or person subject to the Frederick County land-disturbing permit, VESMP authority permit, or state permit requirements under this article aggrieved by any action of the Department of Public Works taken without a formal hearing, or by inaction of the Department of Public Works may demand in writing a formal hearing by the County Board of Supervisors, provided a petition requesting such hearing is filed with the Board of Supervisors within 30 days after notice of such action. Any hearings conducted by the Board of Supervisors shall be in accordance with §62.1-44.26 of the Code of Virginia. Hearings must be conducted by the Board of Supervisors at a regular or special meeting. In reviewing the agent's actions, the County Board of Supervisors shall consider evidence and opinions, and the County Board of Supervisors may affirm, reverse or modify the action. Verbatim record of proceedings must be taken and filed with the County Board of Supervisors. The County Board of Supervisors decision shall be final, subject only to review by the Circuit Court of the County.

Reference: 9VAC25-875-160

§143-232 Appeals

- A. Any permittee or party aggrieved by a state permit or enforcement decision of the Frederick County Public Works under this article, or any person who has participated, in person or by submittal of written comments, in the public comment process related to a final decision of the Department of Public Works or Board of Supervisors under this chapter, whether such decision is affirmative or negative, is entitled to judicial review thereof in accordance with the provisions of the Administrative Process Act (§2.2-4000 et

seq.) if such person meets the standard for obtaining judicial review of a case or controversy pursuant to Article III of the Constitution of the United States. Final decisions shall be subject to review and appeal to the Circuit Court of the County, provided an appeal is filed within 30 days from the date of any written decision adversely affecting the rights, duties, or privileges of the person engaging in or proposing to engage in the land disturbance activity occurs or is proposed to occur. Unless otherwise provided by law, the Circuit Court shall conduct such review in accordance with the standards established in § 2.2-4027, and the decisions of the Circuit Court shall be subject to review by the Court of Appeals. A person shall be deemed to meet such standard if:

- 1) Such person has suffered an actual or imminent injury that is an invasion of a legally protected interest and that is concrete and particularized;
- 2) Such injury is traceable to the decision of the Department or the Board and not the result of the independent action of some third party not before the court; and
- 3) Such injury will likely be redressed by a favorable decision by the court.

Reference: §62.1-44.15:46.

§143-235 Fees

- A. The Board of Supervisors, by resolution, may establish a schedule of fees for the application, modification, transfer and maintenance of stormwater/erosion and sediment control permits and plans.
- B. The fee for the Frederick County Permit and fees for coverage under the VESMP Authority Permit shall be imposed in accordance with Table 1. When a site or sites have been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees in accordance with the disturbed acreage of their site or sites according to Table 1.

Reference: Part VIII of the VESMP Regulation

Table 1: Fees for coverage under the VESMP Construction General Permit/ VESCP

| Type of Permit | Total Fee Paid by Applicant | Portion to be Paid to DEQ |
|--|-----------------------------|---------------------------|
| VESCP permit fee (all land disturbing activities, excluding individual single-family dwellings) | \$500 + \$100/acre | N/A |
| VESCP permit fee (land disturbing activities begun without permit, excluding individual single-family dwellings) | \$1,500 + \$200/acre | N/A |

| | | |
|---|--|--|
| VESCP permit fee for single family detached/attached residential structures within or outside a common plan of development or sale with land disturbance acreage less than five (5) acres) | \$290 | N/A |
| VESCP permit fee (single family dwellings begun without permit) | \$580 | N/A |
| VESCP single family dwelling re-inspection fee | \$75 | N/A |
| <u>VESMP General/ Stormwater Management – Small Construction Activity/ Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than one acre, except for single family detached residential structures)</u> | <u>\$450</u> | <u>\$135</u> |
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres) | ~~\$2,700~~
<u>\$4,100</u> | ~~-\$756~~
<u>\$1,230</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres) | ~~\$3,400~~
<u>\$5,100</u> | ~~-\$952~~
<u>\$1,530</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres) | ~~\$4,500~~
<u>\$6,800</u> | ~~-\$1,260~~
<u>\$2,040</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres) | ~~\$6,100~~
<u>\$9,100</u> | ~~-\$1,708~~
<u>\$2,730</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres) | ~~\$9,600~~
<u>\$14,300</u> | ~~-\$2,688~~
<u>\$4,290</u> |

C. Fees for the modification or transfer of coverage under the VESMP construction general permit issued by the Administrator shall be imposed in accordance with Table 2. If the permit modifications result in changes to stormwater management plans that require additional review by the Administrator, such reviews shall be subject to the fees set out in Table 2 based on the total disturbed acreage of the site. Modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial state permit fee paid and the state permit fee that would have applied for the total disturbed acreage in Table 1.

Table 2: Fees for the modification or transfer of registration statements for the VESMP Authority Permit for Discharges of Stormwater from Construction Activities

| Type of Permit | Fee Amount |
|--|------------------------------------|
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, (also includes single-family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres) | ~~\$20~~
<u>\$30</u> |
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres) | ~~\$200~~
<u>\$320</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres) | ~~\$250~~
<u>\$400</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres) | ~~\$300~~
<u>\$480</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres) | ~~\$450~~
<u>\$720</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres) | ~~\$700~~
<u>\$1,120</u> |

D. Permit maintenance fees. (9VAC25-875-1420):

1. The following annual permit maintenance shall be imposed in accordance with Table 3, including fees imposed on expired permits that have been administratively continued. With respect to the VESMP authority permit, these fees shall apply until the permit coverage is terminated.
2. VESMP authority permit coverage maintenance fees shall be paid annually to the VESMP authority, by the anniversary date of VESMP authority general permit coverage, in accordance with Table 3. No VESMP authority permit will be reissued or automatically continued without payment of the required fee. VESMP authority permit coverage maintenance fees shall be applied until a notice of termination is effective.

Table 3: VESMP Authority Permit Maintenance Fees

| Type of Permit | Fee Amount |
|--|---|
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre, also includes single family detached residential structures within or outside a common plan of development or sale with land disturbance acreage less than 5 acres.) | ~~\$50~~
<u>\$80</u> |
| VESMP General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 acres) | ~~\$400~~
<u>\$650</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres) | ~~\$500~~
<u>\$800</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres) | ~~\$650~~
<u>\$1,050</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres) | ~~\$900~~
<u>\$1,450</u> |
| VESMP General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres) | ~~\$1,400~~
<u>\$2,250</u> |

E. The fees set forth in Subsections **A** through **C** above shall apply to:

1. All persons seeking coverage under the VESMP Authority Permit or VESCP permit if VESMP not required.
2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a VESMP authority permit.

3. Persons whose coverage under the VESMP Authority Permit has been revoked shall reapply for an individual permit for discharges of stormwater from construction activities.
 4. Permit and permit coverage maintenance fees outlined under Subsection C may apply to each VESMP Authority Permit holder.
- F. No VESMP Authority Permit application fees will be assessed to Permittees whose permits are modified or amended at the initiative of the VESMP authority, excluding errors in the registration statement identified by the Director or errors related to the acreage of the site.
- G. All incomplete VESMP permit fee payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete permit fee payments. Interest may be charged for late permit fee payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated monthly at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The Administrator shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

§143-240 Performance Bonds

- A. Prior to the issuance of any permit, the owner or permittee shall execute and file with the Administrator a Frederick County monetary guaranty in such form as is in accordance with the monetary guaranty and performance agreement policy adopted by the Board and in an amount determined in accordance with the Frederick County bond estimate worksheet which shall be equal to the approximate total cost of providing erosion and sediment control and stormwater quality and quantity improvements as required by this chapter and shown on the approved plans in addition to a 25% contingency of the total bond amount.
- B. The Frederick County erosion and sediment control and stormwater management performance agreement and monetary guaranty is to ensure that measures could be taken by the County at the applicant's expense should he fail, after proper notice as outlined in **§143-225**, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions because of his land-disturbing activity. If the County takes such action upon such failure by the applicant, the County may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.
- C. Upon successful completion of the land-disturbing activity, to include submittal of a Notice of Termination of the Construction General Permit, submittal of the construction as-built drawings of permanent stormwater management facilities described in **§143-165** and prior to termination of the VESMP Permit, the owner or permittee must provide written notification to the County in accordance with the bonding policy. Upon

verification of adequate stabilization of land disturbing activity in the project or any section thereof, the Administrator shall take action upon the monetary guaranty and performance agreement in accordance with the bonding policy.

- D. If the applicant/owner fails to comply with the approved SWPPP as documented through the site inspections described herein, and after proper notification, the Administrator may determine that the performance agreement is in default, and the monetary guaranty may be used to execute the plan.

Reference: §62.1-44.15:34; 9VAC25-875-100



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title:

Request from the Commissioner of the Revenue for Refund and

Supplemental Appropriation: LEVEL 1 PROPERTY SOLUTIONS LLC- \$12,084.00

Attachments:

[BOS04-22-26RequestForRefund.pdf](#)



COUNTY OF FREDERICK

Andrew R. Fox
County Attorney

540/722-8383
Fax 540/667-0370
E-mail andrew.fox@fcva.us

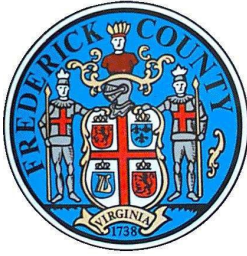
MEMORANDUM

TO: Frederick County Board of Supervisors
CC: Michael Bollhoefer, County Administrator
FROM: Andrew R. Fox, County Attorney
DATE: April 6, 2026
RE: Commissioner of Revenue Refund Requests

Attached, for the Board's review, are requests to authorize the Treasurer to credit the following entities:

1. LEVEL 1 PROPERTY SOLUTIONS LLC- \$12,084.00

Attachments



COUNTY OF FREDERICK

Andrew R. Fox
County Attorney

540/722-8383
Fax 540/667-0370
E-mail andrew.fox@fcva.us

MEMORANDUM

TO: Frederick County Board of Supervisors
CC: Michael Bollhoefer, County Administrator
FROM: Andrew R. Fox, County Attorney
DATE: April 6, 2026
RE: Refund – LEVEL 1 PROPERTY SOLUTIONS LLC

I am in receipt of the Commissioner's request, dated April 3, 2026, to authorize the Treasurer to refund Level 1 Property Solutions LLC, \$12,084.00. Level 1 Property Solutions LLC notified us on March 25, 2026 that they are moving their business from Frederick County to the City of Winchester effective April 1, 2026. This closure initiated a credit for the proration of the 2026 business license tax they had already paid in full.

Board approval is required in order for the Treasurer to issue this refund in compliance with Virginia State Code and Frederick County ordinance. The Commissioner's office has verified all required data, and supporting documentation is filed with the Commissioner of the Revenue.

Please also approve a supplemental appropriation for the Finance Director on this request.

Attachment



TONYA C. SIBERT
COMMISSIONER

Frederick County, Virginia

OFFICE OF

COMMISSIONER OF THE REVENUE

107 North Kent Street
Winchester VA 22601

P.O. Box 552
Winchester VA 22604-0552

tonya.sibert@fcva.us

www.fcva.us/cor



Phone: 540-665-5681
Fax: 540-667-6487

April 3, 2026

TO: Andy Fox, County Attorney
Sharon Kibler, Finance Director
Frederick County Board of Supervisors
Michael Bollhoefer, County Administrator

FROM: Tonya C. Sibert, Commissioner of the Revenue

RE: Exoneration – LEVEL 1 PROPERTY SOLUTIONS LLC

Level 1 Property Solutions LLC notified us on March 25, 2026 that they are moving their business from Frederick County to the City of Winchester effective April 1, 2026. This closure initiated a credit for the proration of the 2026 business license tax they had already paid in full.

To comply with the requirements for the Treasurer to issue this refund, Board action is required.

The Commissioner's staff has verified all required data, and the paperwork is in the care of the Commissioner of the Revenue.

Please also approve a supplemental appropriation for the Finance Director on this request.

Exoneration is \$12,084.00.

Date: 3/27/26 Cash Register: COUNTY OF FREDERICK Time: 13:34:41

Cashier: [REDACTED] Total Transactions: 674
Customer Name: LEVEL 1 PROPERTY SOLUTIONS LLC Customer Transactions: 1

Options: 2=Edit 4=Delete 5=View

| Opt | Dept | Trans | Ticket No. | Tax Amount | Penalty/Int | Amount Paid |
|-----|--------|-------|-------------|--------------|-------------|--------------|
| - | BL2026 | 1 | 00002310001 | \$12,084.00- | \$.00 | \$12,084.00- |

F3=Exit F14=Show Map# F15=Show Balance F18=Sort-Entered F20=Attach

Total Paid : \$12,084.00

Needs Board Approval



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title:

Resolution for Changes in the Secondary System of State Highways:

One Logistics Park

Attachments:

[BOS04-22-26RoadResOneLogisticsPark.pdf](#)



Memorandum

To: Frederick County Board of Supervisors

From: Mark R. Cheran, Zoning and Subdivision Administrator

Date: April 22, 2026

RE: One Logistics Park

The following abandonment and addition to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

| | | |
|-----------------------------|----------|-----------|
| Route 1538 Coverstone Drive | Addition | 0.48 mile |
| Route 1538 Coverstone Drive | Addition | 0.42 mile |

Staff is available to answer any questions.

MRC/slc



**RESOLUTION
BY THE
FREDERICK COUNTY BOARD OF
SUPERVISORS**

The Board of Supervisors of Frederick County, in regular meeting on the 22nd day of April, 2026, adopted the following:

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Frederick County; and

WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Secondary Street Acceptance Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.2-705, Code of Virginia, and the Department's Secondary Street Acceptance Requirements; and

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

John F. Jewell, Chairman

Jason C. Aikens

Albert L. Orndorff

Robert W. Wells

Michael D. Guevremont

Robert T. Liero

Gary R. Oates

A COPY ATTEST

Michael Bollhoefer
Frederick County Administrator



In Frederick County

by Resolution of the governing body adopted 4/22/2026

The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

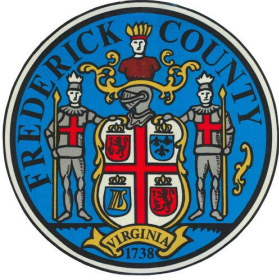
A Copy Testee

Signed (County Official):

Report of Changes in the Secondary System of State Highways

Project/Subdivision: One Logistics Park

| CHANGE TYPE | RTE NUM & STREET NAME | CHANGE DESCRIPTION | FROM TERMINI | TO TERMINI | LENGTH | NUMBER OF LANES | RECORDATION REFERENCE | ROW WIDTH |
|-------------|-----------------------------|----------------------------------|---------------------------------|----------------------------|--------|-----------------|-----------------------|-----------|
| Addition | Rt. 1538 - Coverstone Drive | New subdivision street §33.2-705 | Pendleton Drive (private) | Millwood Pike, Route 50/17 | 0.48 | 4 | Instrument 240008097 | 119 |
| Addition | Rt. 1538 - Coverstone Drive | New subdivision street §33.2-705 | Existing Coverstone Drive, 1538 | Pendleton Drive (private) | 0.42 | 4 | Instrument 240008097 | 130 |



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title:

Resolution for Changes in the Secondary System of State Highways:

Raven Oaks

Attachments:

[BOS04-22-26RoadResRavenOaks.pdf](#)



Memorandum

To: Frederick County Board of Supervisors

From: Mark R. Cheran, Zoning and Subdivision Administrator

Date: April 22, 2026

RE: Raven Oaks

The following abandonment and addition to the Secondary System of State Highways, pursuant to the statutory provision or provisions cited, are hereby requested; the right of way for which, including additional easements for cuts, fills and drainage, as required, is hereby guaranteed:

| | | |
|-----------------------------|----------|-----------|
| Route 1683 Raven Oaks Drive | Addition | 0.13 mile |
| Route 1683 Raven Oaks Drive | Addition | 0.06 mile |
| Route 1684 Lenore Lane | Addition | 0.06 mile |
| Route 1684 Lenore Lane | Addition | 0.13 mile |
| Route 1685 Nevermore Drive | Addition | 0.13 mile |
| Route 1685 Nevermore Drive | Addition | 0.06 mile |
| Route 1685 Nevermore Drive | Addition | 0.09 mile |
| Route 1686 Poe Drive | Addition | 0.14 mile |
| Route 1686 Poe Drive | Addition | 0.08 mile |
| Route 1686 Poe Drive | Addition | 0.05 mile |
| Route 1687 Edgar Lane | Addition | 0.12 mile |

Staff is available to answer any questions.

MRC/slc



**RESOLUTION
BY THE
FREDERICK COUNTY BOARD OF
SUPERVISORS**

The Board of Supervisors of Frederick County, in regular meeting on the 22nd day of April, 2026, adopted the following:

WHEREAS, the streets described on the attached Form AM-4.3, fully incorporated herein by reference, are shown on plats recorded in the Clerk's Office of the Circuit Court of Frederick County; and

WHEREAS, the Resident Engineer of the Virginia Department of Transportation has advised this Board that the streets meet the requirements established by the Secondary Street Acceptance Requirements of the Virginia Department of Transportation; and

WHEREAS, the County and the Virginia Department of Transportation have entered into an agreement on June 9, 1993, for comprehensive stormwater detention which applies to this request for addition; and

NOW, THEREFORE, BE IT RESOLVED, this Board requests the Virginia Department of Transportation to add the streets described in the attached Form AM-4.3 to the secondary system of state highways, pursuant to 33.2-705, Code of Virginia, and the Department's Secondary Street Acceptance Requirements; and

BE IT FURTHER RESOLVED, this Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage; and

BE IT FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

John F. Jewell, Chairman

Jason C. Aikens

Albert L. Orndorff

Robert W. Wells

Michael D. Guevremont

Robert T. Liero

Gary R. Oates

A COPY ATTEST

Michael Bollhoefer
Frederick County Administrator



COMMONWEALTH OF VIRGINIA DEPARTMENT OF TRANSPORTATION
Form AM 4.3

In Frederick County

by Resolution of the governing body adopted 4/22/2026

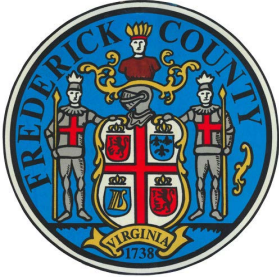
The following VDOT Form AM-4.3 is hereby attached and incorporated as part of the governing body's resolution for changes to the secondary system of state highways.

A Copy Testee Signed (County Official): _____

Report of Changes in the Secondary System of State Highways

Project/Subdivision: **Raven Oaks**

| CHANGE TYPE | RTE NUM & STREET NAME | CHANGE DESCRIPTION | FROM TERMINI | TO TERMINI | LENGTH | NUMBER OF LANES | RECORDATION REFERENCE | ROW WIDTH |
|-------------|-----------------------------|----------------------------------|------------------------------|------------------------------|--------|-----------------|----------------------------------|-----------|
| Addition | Rt. 1683 - Raven Oaks Drive | New subdivision street §33.2-705 | Lenore Lane, Route 1684 | Poe Drive, Route 1686 | 0.13 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1683 - Raven Oaks Drive | New subdivision street §33.2-705 | Inverlee Way, Route 1520 | Lenore Lane, Route 1684 | 0.06 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1684 - Lenore Lane | New subdivision street §33.2-705 | Raven Oaks Drive, Route 1683 | Nevermre Drive, Route 1685 | 0.06 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1684 - Lenore Lane | New subdivision street §33.2-705 | Raven Oaks Drive, Route 1683 | ESM | 0.13 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1685 - Nevermore Drive | New subdivision street §33.2-705 | Lenore Lane, Route 1684 | Poe Drive, Route 1686 | 0.13 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1685 - Nevermore Drive | New subdivision street §33.2-705 | Poe Drive, Route 1686 | ESM | 0.06 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1685 - Nevermore Drive | New subdivision street §33.2-705 | Lenore Lane, Route 1684 | ESM | 0.09 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1686 - Poe Drive | New subdivision street §33.2-705 | Edgar Lane, Route 1687 | ESM | 0.14 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1686 - Poe Drive | New subdivision street §33.2-705 | Raven Oaks Drive, Route 1683 | Edgar Lane, Route 1687 | 0.08 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1686 - Poe Drive | New subdivision street §33.2-705 | Nevermore Drive, Route 1685 | Raven Oaks Drive, Route 1683 | 0.05 | 2 | Instrument 210003151
Page 420 | 54 |
| Addition | Rt. 1687 - Edgar Lane | New subdivision street §33.2-705 | Inverlee Way, Route 1520 | Poe Drive, Route 1686 | 0.12 | 2 | Instrument 210003151
Page 420 | 54 |



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title:

A Resolution of the Frederick County Board Of Supervisors Approving of the County's Participation in the Proposed Combined Settlement Agreement Resolving Opioid-Related Claims Against Associated Pharmacies, Inc. (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc; Morris And Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (Including its Subsidiaries Supervalu and Advantage Logistics) (Collectively Referred to as the Six Remnant Defendants), and Directing the County Administrator to Execute the Documents Necessary to Effectuate the County's Participation in the Settlement

Attachments:

[BOS04-22-26OpioidRemnantDefendantSettlementAuth.pdf](#)



COUNTY OF FREDERICK
Office of County Attorney

Phone: 540-722-8383

Fax: 540-667-0370

MEMORANDUM

TO: Board of Supervisors

FROM: Andrew R. Fox, County Attorney

DATE: April 22, 2026

RE: Frederick County Opioid Remnant Defendant Settlement Authorization

This Resolution authorizes the County Administrator to approve Frederick County's participation in an opioid settlement with six national pharmaceutical companies referred to as the "Remnant Defendants." Participating localities will share approximately \$98M in settlement proceeds. Frederick County's share will be determined once all eligible localities have opted in to the settlement by the deadline of May 4, 2026.

We will continue to identify permissible uses of opioid settlement funds as discussed during the Board's recent budget deliberations. Generally, funds must be used for new or enlarged substance abuse programs and cannot replace or supplant existing local funding for such programs.

Attachment

RESOLUTION

A RESOLUTION OF THE FREDERICK COUNTY BOARD OF SUPERVISORS APPROVING OF THE COUNTY'S PARTICIPATION IN THE PROPOSED COMBINED SETTLEMENT AGREEMENT RESOLVING OPIOID-RELATED CLAIMS AGAINST ASSOCIATED PHARMACIES, INC. (AND AMERICAN ASSOCIATED PHARMACIES); J M SMITH CORPORATION; LOUISIANA WHOLESALE DRUG COMPANY, INC; MORRIS AND DICKSON CO.; NORTH CAROLINA MUTUAL WHOLESALE DRUG COMPANY, INC.; AND UNITED NATURAL FOODS, INC. (INCLUDING ITS SUBSIDIARIES SUPERVALU AND ADVANTAGE LOGISTICS) (COLLECTIVELY REFERRED TO AS THE SIX REMNANT DEFENDANTS), AND DIRECTING THE COUNTY ADMINISTRATOR TO EXECUTE THE DOCUMENTS NECESSARY TO EFFECTUATE THE COUNTY'S PARTICIPATION IN THE SETTLEMENT

WHEREAS, the opioid epidemic that has cost thousands of human lives across the country also impacts Frederick County by adversely impacting the delivery of emergency medical, law enforcement, criminal justice, mental health and substance abuse services, and other services by Frederick County's various departments and agencies; and

WHEREAS, Frederick County has been required and will continue to be required to allocate substantial taxpayer dollars, resources, staff energy and time to address the damage the opioid epidemic has caused and continues to cause the citizens of Frederick County; and

WHEREAS, a settlement proposal has been negotiated that will cause six opioids defendants, Associated Pharmacies, Inc (and American Associated Pharmacies); J M Smith Corporation; Louisiana Wholesale Drug Company, Inc.; Morris and Dickson Co.; North Carolina Mutual Wholesale Drug Company, Inc.; and United Natural Foods, Inc. (including its subsidiaries SuperValu and Advantage Logistics) ("Six Remnant Defendants") to pay approximately \$97,625,000 nationwide to resolve opioid-related claims by state subdivisions against it; and

WHEREAS, Frederick County will be entitled to a portion of the settlement proceeds despite not having filed suit against any of the Six Remnant Defendants; and

WHEREAS, the County seeks recovery of the public funds previously expended and to be expended in the future to abate the consequences and harms of the opioid epidemic; and

WHEREAS, the County's outside opioid litigation counsel has recommended that the County participate in the Six Remnant Defendants settlement in order to recover its share of the funds that the settlement would provide; and

WHEREAS, the County Attorney has reviewed the available information about the proposed settlement and concurs with the recommendation of outside counsel;

NOW THEREFORE BE IT RESOLVED that the Frederick County Board of Supervisors, this 22nd day of April, 2026, approves of the County's participation in the proposed settlement of opioid-related claims against the Six Remnant Defendants and their related corporate entities, and

directs the County Administrator to execute the documents necessary to effectuate the County's participation in the settlement, including the required release of claims against the Six Remnant Defendants.

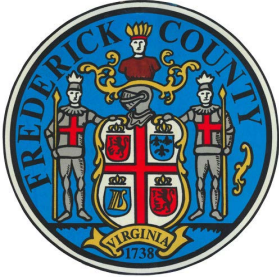
Adopted this 22nd day of April 2026 by the following recorded vote:

| | | | |
|--------------------------------|-------|-----------------|-------|
| John Jewell, Chairman At-Large | _____ | Mike Guevremont | _____ |
| Albert Orndorff | _____ | Robert Liero | _____ |
| Jason C. Aikens | _____ | Gary Oates | _____ |
| Robert W. Wells | _____ | | |

A COPY ATTEST

Michael L. Bollhoefer
Frederick County Administrator

No.



Board of Supervisors
Agenda Item Detail
Meeting Date: April 22, 2026
Agenda Section: Consent Agenda

Title: Resolution Ratifying the Declaration of an Emergency Ban on Open-air Burning

Attachments:

[BOS04-22-26BurnBanRatification.pdf](#)



FIRE AND RESCUE DEPARTMENT

OFFICE OF THE FIRE MARSHAL

S. Mark Showers
Deputy Chief/Fire Marshal
Life Safety Division

M E M O R A N D U M

1080 Coverstone Drive
Winchester, VA 22602

TO: Mike Bollhoefer, County Administrator
Steven Majchrzak, Fire Chief

FROM: S. Mark Showers, Deputy Chief/Fire Marshal, Life Safety Division

SUBJECT: Open Air Burn Ban

DATE: April 16, 2026

Due to extreme atmospheric and drought conditions, the threat for wildfires due to minimum relative humidity, winds, and extremely low fuel moisture. This is setting up for the possibility of multiple and possibly large incidents that could threaten lives and property within Frederick County.

Due to the above stated circumstances, the Frederick County Fire Marshal is recommending to the County Administrator and the Board of Supervisors pursuant to Chapter 45, Article II, Section 45-10E of the Code of Frederick County, Virginia, implemented emergency measures and declared an emergency ban on open air burning effective Thursday, April 16, 2026. We are writing this memo for you to present to the Board of Supervisors so that it can be ratified at their next meeting pursuant to the above code.

The need for the Burn Ban shall be evaluated daily and lifted when the conditions improve.



RESOLUTION

RATIFYING DECLARATION OF AN EMERGENCY BAN ON OPEN-AIR BURNING

WHEREAS, because of extreme atmospheric and drought conditions, the threat of wildfires due to minimum relative humidity, winds, and extremely low fuel moisture is increased, thereby facilitating the possibility of multiple and possibly large incidents that could threaten lives and property within Frederick County; and

WHEREAS, following the identification of the above-stated circumstances, the Frederick County Fire Marshal, in coordination with the County Administrator, implemented emergency measures and declared an emergency ban on open-air burning effective Thursday, April 16, 2026.

NOW, THEREFORE, BE IT RESOLVED that the Frederick County Board of Supervisors, pursuant to Chapter 45, Article II, Section 45-10E of the Code of Frederick County, ratifies the declaration of the emergency ban on open-air burning issued on Thursday, April 16, 2026.

ADOPTED this 22nd day of April 2026.

John F. Jewell, Chairman

Jason C. Aikens

Albert L. Orndorff

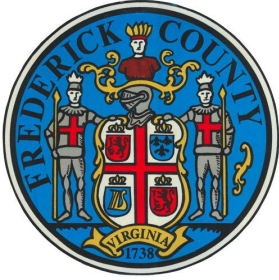
Robert W. Wells

Michael D. Guevremont

Robert T. Liero

Gary R. Oates

Michael L. Bollhoefer
Clerk, Board of Supervisors
County of Frederick, Virginia



Board of Supervisors

Agenda Item Detail

Meeting Date: April 22, 2026

Agenda Section: Public Hearings (Non Planning Issues)

Title:

Proposed Amendment to the Lease Agreement Between the County of Frederick, Virginia and H&R Block Eastern Enterprises, Inc. The Board of Supervisors will Conduct a Public Hearing on an Amendment to the Existing Lease Agreement Between the County of Frederick, Virginia and H&R Block Eastern Enterprises, Inc., for Space Located at 223 Sunnyside Plaza Drive and More Particularly Described as Certain Real Property Containing Approximately 1,440 Square Feet Said Property Being Part of that Parcel Identified as Parcel Number 53-A-52-E in the Stonewall Magisterial District. The Proposed Amendment Would Extend the Existing Lease for an Additional 2 Years Commencing on May 1, 2026, and Expiring April 30, 2028.

Attachments:

[BOS04-22-26HRBlockLeaseAmendment_Redacted.pdf](#)



COUNTY of FREDERICK

Office of the County Administrator

Tel: 540.665.6382

Fax: 540.667.0370

MEMORANDUM

To: Frederick County Board of Supervisors

From: Jay E. Tibbs, Deputy County Administrator

Date: April 7, 2026

Re: Proposed Amendment to the Lease Agreement between the County of Frederick, Virginia and H&R Block Eastern Enterprises, Inc.

Attached please find a proposed amendment (Lease Amendment 10) to the lease agreement between the County of Frederick, Virginia and H&R Block Eastern Enterprises, Inc. for H&R Block's office space located at 223 Sunnyside Plaza Drive and more particularly described as certain real property containing approximately 1,440 square feet said property being part of that parcel identified as Parcel Number 53-A- 52E in the Stonewall Magisterial District. The proposed amendment would extend the existing lease for an additional two-year period commencing on May 1, 2026 and expiring on April 30, 2028. The proposed base rent would be:

\$1,080.00 per month from May 1, 2026 - April 30, 2027; and
\$1,112 per month from May 1, 2027 - April 30, 2028.

As the Board might recall, the rent income received from the tenants at Sunnyside Plaza has been appropriated to cover the costs to carry the property to include property management fees, utilities, repairs, etc.

The County's property manager Virginia Property Group has worked with representatives from H&R Block to negotiate this lease renewal.

The Board will conduct a public hearing on the proposed lease and at the conclusion of the hearing, staff would be seeking Board approval of the proposed lease amendment and authorization for the county administrator to execute the lease on behalf of the county.

Should you have any questions, please do not hesitate to contact me.

Attachment

Lease Amendment #10

This Agreement, dated March 10, 2026, by and between County of Frederick Virginia, 107 N KENT STREET, Winchester, VA 22601 (hereinafter referred to as "Landlord") and H&R Block Eastern Enterprises, Inc., a Missouri corporation, (hereinafter referred to as "Tenant"),

WITNESSETH

WHEREAS, Landlord and Tenant entered into that certain Lease dated July 11, 1990, which has been modified and extended from time to time, which is currently scheduled to expire April 30, 2026 (collectively hereinafter referred to as the "Lease"), for certain real property containing approximately 1,440 square feet located at 223 Sunnyside Plaza Circle, Winchester, VA 22603-4265 (hereinafter referred to as the "Premises") which is located in Sunnyside Plaza (hereinafter referred to as the "Shopping Center"),

WHEREAS, Landlord and Tenant desire to amend the Lease;

NOW, THEREFORE, IT IS HEREBY AGREED AS FOLLOWS:

That the Lease is amended effective upon full execution of this Agreement as follows:

1. Term:

The term of the Lease is hereby extended an additional two (2) years commencing on May 1, 2026 and expiring on April 30, 2028 ("Expiration Date").

2. Base Rent:

| | |
|--|----------------------|
| May 1, 2026 – April 30, 2027
(One Thousand Eighty and No/100 Dollars) | \$1,080.00 per month |
|--|----------------------|

| | |
|--|----------------------|
| May 1, 2027 – April 30, 2028
(One Thousand One Hundred Twelve and No/100 Dollars) | \$1,112.00 per month |
|--|----------------------|

3. Rent Payments:

Under Section 6109 of the Internal Revenue Code, Landlord is required to provide Tenant with the correct Taxpayer Identification Number (TIN) in order for Tenant to file information returns to the IRS to report income paid to Landlord. Said W-9 form is included and Landlord shall return the form filled out upon Lease execution.

Rent shall be payable to: COUNTY OF FREDERICK VIRGINIA
107 N KENT STREET
WINCHESTER, VA 22601

Payee's Taxpayer Identification Number (TIN): 546001290

4. Title:

Notwithstanding anything contained to the contrary in the Lease, Landlord represents and warrants that Landlord owns the Premises and the Shopping Center, and has the authority to lease the Premises.

5. Notices:

Notwithstanding anything contained to the contrary in the Lease, all notices from Landlord to Tenant must be sent to the following address to be deemed sufficiently given:

H&R Block
c/o Cushman & Wakefield
575 Maryville Center Drive, Suite 600
St. Louis, MO 63141
Attn: H&R Block Dept ID #44601

Notwithstanding anything contained to the contrary in the Lease, all notices from Tenant to Landlord must be sent to the following address to be deemed sufficiently given:

County of Frederick Virginia
107 N Kent Street
Winchester, VA 22601

All other terms, covenants and conditions of the Lease shall remain in full force and effect. In the event of any conflicts between the terms and conditions of the Lease and the terms and conditions of this Agreement, the terms and conditions of this Agreement shall prevail.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Agreement to be fully executed as of the date last written below.

LANDLORD:
County of Frederick Virginia

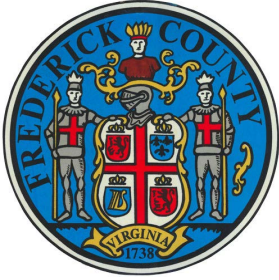
TENANT:
H&R Block Eastern Enterprises, Inc., a Missouri corporation

| | |
|---------------------|--|
| By: _____ | By: <u>Cushman & Wakefield U.S., Inc., Agent</u> |
| Printed Name: _____ | By:  |
| Title: _____ | Printed Name: <u>LaRae Bigard</u> |
| Date: _____ | Title: <u>Transaction Manager</u> |
| | Date: <u>3/10/2026</u> |

Information Request for Tenant's Insurance Policy

For reasons of information necessary for renewal of tenants' property insurance policy, the tenant requests the below information from the landlord

Construction of Overall Building (steel, wood, concrete, etc.): _____
Year Building was Built: _____
Number of Floors for the Building: _____
Floor Tenant Occupies: _____
Year Roof Installed: _____
Sprinkler System (Yes or No): _____
Sprinkler Type (if applicable): _____



Board of Supervisors

Agenda Item Detail

Meeting Date: April 22, 2026

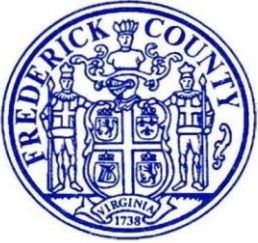
Agenda Section: Public Hearings (Non Planning Issues)

Title:

Granting of a Utility Easement for Lot 10 of Echota Trail - That for Good and Valuable Consideration, the Receipt Whereof is Hereby Acknowledged, Frederick County (Grantor) Grants Unto Grantee, Its Successors and Assigns, the Right, Privilege, and Easement to Construct, Extend for Future Requirements of Grantor or Others and Onto Other Properties, Operate, and Maintain Overhead and Underground Electric and Other Utility Service Lines, Communication Infrastructure, Facilities, Conduits and Other Cables with Accessories and Appurtenances for Transmitting and Distributing Electric Power, Other Utility Services, Broadband and Other Communication Services, and Data Delivery and Receipt Services, Over, Under, Through, Upon, Above and Across the Lands of Grantor Containing Approximately 149 Acres, More or Less, Identified by Frederick County, Virginia, Tax Map No.49A02 2 F, Within the Back Creek Magisterial District.

Attachments:

[BOS04-22-26ShawneelandUtilityServiceAgreement.pdf](#)



MEMORANDUM

TO: Board of Supervisors

FROM: Joe C. Wilder, Director of Public Works

SUBJECT: Acceptance of Utility Services Agreement – Shawneeland Sanitary District

DATE: April 6, 2026

Mr. Thomas Curry, a property owner within the Shawneeland Sanitary District, has proposed the construction of a residence on Lot 10 located along Echota Trail. In order to facilitate the provision of electrical service to the property, Shenandoah Valley Electric Cooperative (SVEC) has submitted a request for a utility service easement across County-owned property for the installation of a future power pole, as illustrated in the attachment. The requested easement would authorize SVEC to install, operate, and maintain the necessary infrastructure, including the power pole and associated service lines.

As the subject property is owned by Frederick County, the granting of the easement necessitates the conduct of a public hearing and subsequent approval by the Board of Supervisors.

The Public Works Committee has reviewed the request and, by consensus, recommends that the proposed easement be forwarded to the Board of Supervisors for consideration and approval.

JCW/amr

cc: file

Tax Map No.: 49A02 2 F

WO# 2454997

Consideration: \$1.00

Prepared by: Jacob T. Penrod, Attorney/VSB#65819
Hoover Penrod PLC
342 S Main St, Harrisonburg VA 22801

Return to: SVEC, Regional Office
3463 Valley Pike,
Winchester, VA 22602

UTILITY SERVICES EASEMENT

THIS DEED OF EASEMENT, made this _____ day of _____, 20____, between _____, COUNTY OF FREDERICK, VIRGINIA _____, "Grantor", whether one or more, and SHENANDOAH VALLEY ELECTRIC COOPERATIVE, a Virginia utility consumer services cooperative, "Grantee".

W I T N E S S E T H:

That for good and valuable consideration, the receipt whereof is hereby acknowledged, Grantor grants unto Grantee, its successors and assigns, the right, privilege, and easement to construct, extend for future requirements of Grantor or others and onto other properties, operate, and maintain overhead and underground electric and other utility service lines, communication infrastructure, facilities, conduits and other cables with accessories and appurtenances for transmitting and distributing electric power, other utility services, broadband and other communication services, and data delivery and receipt services, over, under, through, upon, above and across the lands of Grantor containing 149.28 acres, more or less, identified by **Tax Map No.** 49A02 2 F within or near the city/town/community of Winchester in Frederick County, Virginia, within BACK CREEK Magisterial District, the center line of such easement shall be located and fixed where the lines, conduits and cables are actually constructed. In the event a plat or sketch is attached hereto, such document is for reference purposes only, is intended to provide only the approximate location of the installed facilities and, unless such plat or sketch clearly indicates otherwise, it has not been surveyed and is not to scale. Grantee shall have the right to license, permit, or otherwise agree to the joint use or occupancy of any overhead space or trench and related underground facilities, by any other person, association, or corporation. "Communication infrastructure" includes fiber optic cable, coaxial cable, small cell base stations, and related facilities and equipment for broadband, other communication services, data delivery and receipt services, and the right to grant rights in, lease, license, or permit the use of such infrastructure to or from third parties for the same or similar purposes.

The facilities erected hereunder shall remain the property of Grantee, removable at the option of Grantee. Grantee shall have the right to inspect, rebuild, remove, repair, improve and relocate on the easement herein described, including but not limited to the airspace above the property controlled by Grantor, and make such changes, alterations, substitutions, additions to or extensions of its facilities as Grantee may from time to time deem advisable, including but not limited to the right to increase or decrease the number of wires, conduits, cables, anchors, hand-holes, connection boxes, transformers, transformer enclosures, and communication infrastructure equipment.

For the purpose of exercising its rights hereunder, Grantee further shall have the right of access to the easement over the lands adjacent to the easement or lying between public or private roads and the easement, in such manner as shall occasion the least practicable damage and inconvenience to Grantor.

Grantee shall repair damage it causes to roads which would not have been similarly damaged by Grantor or Grantor's contractors during any construction project on lands served by the line or system. Grantee shall repair damage it causes to fences or other improvements and shall pay Grantor for any other damage it causes in the exercise of its rights hereunder, including its right of access; provided Grantor gives written notice thereof to Grantee within thirty days after any damage occurs.

Grantee shall have the right to cut, trim, and control the growth, by machinery, herbicide, or otherwise, of trees, limbs, undergrowth, shrubbery or other vegetation located within 15 feet of the center line of any overhead facilities within said easement and within 7.5 feet of the center line of any underground facilities within said easement, or that may interfere with or threaten to endanger the operation and maintenance of the works constructed or services rendered pursuant to this easement, including the right to cut danger trees or hazard trees, as defined by Grantee, outside the

easement. All trees and limbs cut by Grantee at any time shall remain the property of Grantor. Grantor covenants that it will keep the easement clear of all buildings, structures, or other obstructions.

Subject to any prescriptive easement of Grantee upon the lands of Grantor, Grantor covenants that it is seized of and has the right to convey the said easement, rights and privileges; that Grantee shall have quiet and peaceable possession, use and enjoyment of the aforesaid easement, rights and privileges; and that Grantor shall execute such further assurances thereof as may be required. This is an easement in gross; the rights granted to Grantee herein are exclusive rights; and all rights granted herein, including but not limited to rights with respect to communication infrastructure and rights of access to accomplish the purposes of this easement, may be separated from any other such rights, and apportioned for any use by Grantee, its successors and assigns to third parties, whether by grant and assignment or by lease, provided that the third party is a broadband or other communication service provider, including a public utility as defined in Va. Code § 56-265.1, a cable operator as defined in Va. Code § 15.2-2108.1:1, a local exchange carrier, competitive or incumbent, or a subsidiary or affiliate of any such entity. Nothing contained herein shall constitute a waiver or relinquishment of prescriptive easement rights of Grantee arising by virtue of prior use by Grantee or its predecessor in interest of any of the rights granted herein. Nothing contained herein shall constitute a waiver of Grantee's rights pursuant to Va. Code § 55.1-306.1. The individual(s) executing this Deed of Easement expressly covenant that no persons or entities have an interest in the property subject to the rights granted herein, other than themselves and any applicable corporation, limited liability company, trust, decedent's estate, or other entity for which they have lawful authority to bind to the terms hereof and do so hereby, and agree to indemnify Grantee for any loss arising from the breach of this covenant. This covenant shall not apply to any lien upon such property arising from a mortgage, deed of trust, judgment, or tax obligation, or with respect to any leasehold rights in the property.

NOTICE TO LANDOWNER: You are conveying rights to a public service corporation. A public service corporation may have the right to obtain some or all of these rights through exercise of eminent domain. To the extent that any of the rights being conveyed are not subject to eminent domain, you have the right to choose not to convey those rights and you could not be compelled to do so. You have the right to negotiate compensation for any rights that you are voluntarily conveying.

WITNESS the following signatures and seals.

_____ (SEAL) _____ (SEAL)

_____ (SEAL) _____ (SEAL)

STATE OF _____

CITY/COUNTY OF _____, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 20____,
by _____, Grantor(s).

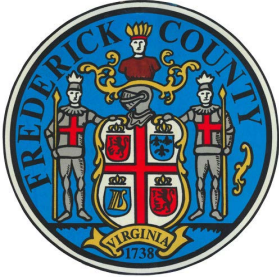
My commission expires:_____.

Notary Registration No:_____.

*(Affix visible Seal, Do Not Stamp in margin area,
margins must be white space and blank!)*

Notary Public signature





Board of Supervisors

Agenda Item Detail

Meeting Date: April 22, 2026

Agenda Section: Public Hearings (Non Planning Issues)

Title:

Proposed Ordinance – Salaries of the Board of Supervisors (FY 2026-2027) – Pursuant to Section 15.2-1414.3 of the Code of Virginia, 1950, as Amended, the Board of Supervisors Will Hold a Public Hearing to Fix the Annual Salaries of the Board of Supervisors as Follows: Chairman, \$10,800; Vice Chairman, \$10,200; and Each Other Member of the Board of Supervisors at \$9,000.

Attachments:

[BOS04-22-26BoardSalaries.pdf](#)



COUNTY of FREDERICK

Office of the County Administrator

Tel: 540.665.6382

Fax: 540.667.0370

MEMORANDUM

To: Frederick County Board of Supervisors

From: Michael Bollhoefer, County Administrator

Date: April 6, 2026

RE: Board of Supervisors Salaries for FY 26-27

Currently, the salaries of the Board members are as follows: Chairman, \$10,800; Vice Chairman, \$10,200; and each other member of the Board, \$9,000. These salaries have remained unchanged for several years.

The attached ordinance has been drafted with the current salary amounts as advertised in advance of the public hearing on April 22, 2026.

ORDINANCE

SALARIES OF BOARD OF SUPERVISORS FISCAL YEAR 2026-2027

BE IT ORDAINED, the annual salary for each member of the Frederick County Board of Supervisors, for the fiscal year beginning July 1, 2026, shall be as follows: Chairman, \$10,800; Vice Chairman, \$10,200; and Each Other Member of the Board of Supervisors at \$9,000.

Upon motion made by Vice Chairman Slaughter and seconded by Supervisor Lockridge, the above was adopted by the Board of Supervisors of the County of Frederick, Virginia, at a regular meeting and public hearing held on April 22, 2026, on the following recorded vote:

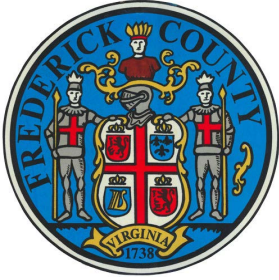
| | | | |
|--------------------------|-------|-----------------------|-------|
| John F. Jewell, Chairman | _____ | Michael D. Guevremont | _____ |
| Albert L. Orndorff | _____ | Robert T. Liero | _____ |
| Jason C. Aikens | _____ | Gary R. Oates | _____ |
| Robert W. Wells | _____ | | |

A COPY ATTEST:

Michael Bollhoefer
Clerk, Board of Supervisors
County of Frederick, Virginia

cc: Sharon Kibler, Finance Director
C. William Orndoff, Jr., Treasurer
Michael Marciano, Human Resources Director

No:



Board of Supervisors

Agenda Item Detail

Meeting Date: April 22, 2026

Agenda Section: Public Hearings (Non Planning Issues)

Title:

An Ordinance to Amend the Frederick County Code, Chapter 155 Taxation, Article XIV Transient Occupancy Tax, Section 155-51 Tax Imposed, to Increase the Transient Occupancy Tax from 3.5% to 6%, Effective July 1, 2026.

Attachments:

[BOS04-22-26LodgingTaxUpdate.pdf](#)



COUNTY OF FREDERICK

Andrew R. Fox
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:
andrew.fox@fcva.us

MEMORANDUM

TO: Board of Supervisors

FROM: Andrew R. Fox
County Attorney

DATE: April 6, 2026

RE: An Ordinance to Amend the Frederick County Code, Chapter 155 Taxation,
Article XIV Transient Occupancy Tax, Section 155-51 Tax Imposed, to Increase
the Transient Occupancy Tax from 3.5% to 6%, Effective July 1, 2026.

This ordinance updates the County Code to reflect the increase in the Transient Occupancy Tax from 3.5% to 6%, effective July 1, 2026, enacted as part of the Fiscal Year 2027 County budget.

Attachment



ORDINANCE
April 22, 2026

The Board of Supervisors of Frederick County, Virginia, hereby ordains that Frederick County Code, Chapter 155 Taxation, Article XIV Transient Occupancy Tax, Section 155-51 Tax Imposed be amended, effective July 1, 2026, as follows (deletions shown in ~~**bold**~~ ~~**strikethrough**~~ and additions shown in **bold underline**):

CHAPTER 155 TAXATION

Article XIV Transient Occupancy Tax

§ 155-51 Tax Imposed

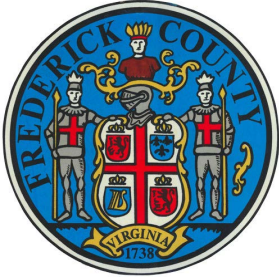
In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby imposed and levied on each and every transient a tax equivalent to ~~3.5%~~ **6%** of the total amount paid for room rental by or for any such transient to any accommodation.

Adopted this 22nd day of April 2026.

John F. Jewell _____
Albert L. Orndorff _____
Jason C. Aikens _____
Robert W. Wells _____

Michael D. Guevremont _____
Robert T. Liero _____
Gary R. Oates _____

Michael Bollhoefer
Clerk, Board of Supervisors
County of Frederick, Virginia



Board of Supervisors

Agenda Item Detail

Meeting Date: April 22, 2026

Agenda Section: Public Hearings (Non Planning Issues)

Title:

An Ordinance to Amend the Frederick County Code, Chapter 155 Taxation, Article XIX Meals Tax, Section 155-118 Tax Imposed, to Increase the Meals Tax from 4% to 6%, Effective July 1, 2026.

Attachments:

[BOS04-22-26MealsTaxUpdate.pdf](#)



COUNTY OF FREDERICK

Andrew R. Fox
County Attorney

540/722-8383

Fax 540/667-0370

E-mail:

andrew.fox@fcva.us

MEMORANDUM

TO: Board of Supervisors

FROM: Andrew R. Fox
County Attorney

DATE: April 6, 2026

RE: An Ordinance to Amend the Frederick County Code, Chapter 155 Taxation,
Article XIX Meals Tax, Section 155-118 Tax Imposed, to Increase the Meals Tax
from 4% to 6%, Effective July 1, 2026.

This ordinance updates the County Code to reflect the increase in the Meals Tax from 4% to 6%, effective July 1, 2026, enacted as part of the Fiscal Year 2027 County budget.

Attachment



ORDINANCE
April 22, 2026

The Board of Supervisors of Frederick County, Virginia, hereby ordains that Frederick County Code, Chapter 155 Taxation, Article XIX Meals Tax, Section 155-118 Tax Imposed be amended, effective July 1, 2026, as follows (deletions shown in ~~bold strikethrough~~ and additions shown in **bold underline**):

Chapter 155 Taxation, Article XIX Meals Tax

CHAPTER 155 TAXATION

Article XIX Meals Tax

§ 155-118 Tax Imposed

In addition to all other taxes and fees of any kind now or hereafter imposed by law, there is hereby levied and imposed on the purchaser of every meal served, sold or delivered in the County by a restaurant or caterer a tax equivalent to ~~4%~~ **6%** of the amount paid for the meal. There shall be no tax if the total amount paid is less than \$0.50; on larger amounts, a fractional cent of tax due shall be rounded to the next higher cent.

Adopted this 22nd day of April 2026.

John F. Jewell, Chairman _____

Michael D. Guevremont _____

Albert L. Orndorff _____

Robert T. Liero _____

Jason C. Aikens _____

Gary R. Oates _____

Robert W. Wells _____

Michael Bollhoefer
Clerk, Board of Supervisors
County of Frederick, Virginia