

AGENDA



CITY OF HOPEWELL

Hopewell, Virginia 23860

AGENDA

(804) 541-2408
www.hopewellva.gov
info@hopewellva.gov
cityclerk@hopewellva.gov

CITY COUNCIL
John B. Partin, Jr., Mayor, Ward #3
Jasmine E. Gore, Vice Mayor, Ward #4
Rita Joyner, Councilor, Ward #1
Michael B. Harris, Councilor, Ward #2
Janice B. Denton, Councilor, Ward #5
Brenda S. Pelham, Councilor, Ward #6
Dominic R. Holloway, Sr., Councilor, Ward #7

Dr. Concetta Manker, City Manager
Beverly Burton, Interim City Attorney
Brittani Williams, City Clerk
Brian Hurdle, Deputy City Clerk

July 23, 2024

REGULAR MEETING

Closed Meeting- 6:00 PM
Work Session-7:00pm
Regular Meeting- 7:30pm

6:00 p.m. Call to order, roll call, and welcome to visitors

CLOSED MEETING

SUGGESTED MOTION: Move to go into closed meeting pursuant to Va. Code Section § 2.2-3711 (A) (1) to discuss and consider personnel matters, including board and commission appointments; the assignment and performance of specific appointee and employees of City Council, and to the extent such discussion will be aided thereby

Roll Call

RECONVENE OPEN MEETING

CERTIFICATION PURSUANT TO VIRGINIA CODE § 2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

WORK SESSION

WS-1 – Conditional Use Permit for 3104 St. Charles – Chris Ward, Director of Development

WS-2 – Conditional Use Permit for 3421 Oaklawn – Chris Ward, Director of Development

REGULAR MEETING

7:30 p.m. Call to order, roll call, and welcome to visitors

Prayer by Evangelist Wright, followed by the Pledge of Allegiance to the Flag of the United States of America led by Councilor Pelham.

SUGGESTED MOTION: To amend/adopt Regular Meeting Agenda Roll Call

CONSENT AGENDA

All matters listed under the Consent Agenda are considered routine by Council and will be approved or received by one motion in the form listed. Items may be removed from the Consent Agenda for discussion under the regular agenda at the request of any Councilor.

- C-1 **Minutes:** June 11, June 20, June 25
- C-2 **Pending List:** December 14, 2023
- C-3 **Information for Council Review:** Police Report
- C-4 **Personnel Change Report & Financial Report:** HR Report
- C-5 **Public Hearing Announcements:**
- C-6 **Routine Approval of Work Sessions:**
- C-7 **Ordinances on Second & Final Reading:**
- C-8 **Routine Grant Approval:**

SUGGESTED MOTION: To amend/adopt consent agenda

INFORMATION/PRESENTATIONS

1. **Safe Streets for All** – Marshall Hartless, Deputy Director of Engineering and Stormwater
2. **Guys with Ties Presentation** – Mayor Partin

COMMUNICATIONS FROM CITIZENS

*CITY CLERK: A Communication from Citizens period, limited in total time to 30 minutes, is part of the Order of Business at each regular Council meeting. All persons addressing Council shall approach the microphone, give name and, **if** they reside in Hopewell, their ward number, and limit comments to three minutes. No one is permitted to speak on any item scheduled for consideration on regular agenda of the meeting. All remarks shall be addressed to the Council as a body, any questions must be asked through the presiding officer. Any person who makes personal, impertinent, abusive, or slanderous statements, or incites disorderly conduct in Council Chambers, may be barred by the mayor from further audience before Council and removed, subject to appeal to a majority of Council (See Rules 405 and 406)*

PUBLIC HEARING

***CITY CLERK:** All persons addressing Council shall step to the microphone, give name and **If** they reside in Hopewell, their ward number, and limit comments to three minutes. No one may address council more than once per meeting, unless granted permission by the presiding officer. Speakers address council as a body, not individual councilors. Questions are asked of councilors and staff through the presiding officer. Any person who makes personal, impertinent, abusive, or slanderous statements, or incites disorderly conduct in the council chamber may be reprimanded by the presiding officer, and removed from the meeting upon a majority vote of councilors present, excluding any councilor who is the subject of the motion. (See Rules 405 and 406)*

PH-1 – Modifications to Development Standards for 5105 Oaklawn Blvd – Chris Ward, Director of Development

PH-2 – CDBG Funding for FY24/FY25 – Chris Ward, Director of Development

REGULAR BUSINESS

R-1 – Revised Language for Chapter 14 Erosion and settlement control and storm water Ordinance – Marshal Hartless, Deputy Director of Engineering and Stormwater

R-2 – Request for part time to full time position for real estate clerk – Russell Branson, Interim Finance Director

Reports of City Manager:

Reports of City Attorney:

Reports of City Clerk:

Councilors Pending Request:

CCR -1 – Repeal of recent ordinance related to city employees running for city public office – Mayor Partin

Presentations from Boards and Commission

Other Council Communications

BOARD/COMMISSION VACANCIES

Architectural Review Board – 1 Vacancies
Board of Building Code and Fire Prevention Code Appeals – 5 Vacancies
Keep Hopewell Beautiful – 1 Vacancy
Recreation and Parks – 4 Vacancies
Library Board – 1 Vacancies
Department of Social Services – 7 Vacancies
District 19 – 2 Vacancies
Dock Commission – 5 Vacancies
Board of Zoning Appeals – 2 Vacancies
Economic Development Authority – 1 Vacancy

Adjournment

**CLOSED
MEETING**

RECONVENE OPEN MEETING

WORK SESSION

WS-1



The City
of
Hopewell, Virginia

300 N. Main Street · Department of Development · (804) 541-2220 · Fax: (804) 541-2318

CONDITIONAL USE PERMIT APPLICATION

APPLICATION FEE: \$300

APPLICATION #

APPLICANT: MMS Rental Group, LLC

ADDRESS: 10709 Cliffmore Dr, Glen Allen, VA 23060

PHONE #: (804) 517-8667 FAX #: _____

EMAIL ADDRESS: Raintreeinvestmentholdings@gmail.com

INTEREST IN PROPERTY: _____ OWNER OR AGENT
*IF CONTRACT PURCHASER, PROVIDE A COPY OF THE CONTRACT OR A LETTER
OF THE PROPERTY OWNER'S CONSENT TO MAKE APPLICATION.*

OWNER: Robert A. Kneaul

ADDRESS: _____

PHONE #: _____ FAX #: _____

PROPERTY ADDRESS / LOCATION:

3104 St Charles St, Hopewell, VA 23860

PARCEL #: 1230055 ACREAGE: 0.2164 ZONING: R1-A

*** IF REQUIRED BY ARTICLE 16 OF THE ZONING ORDINANCE, ***
A SITE PLAN MUST ACCOMPANY THIS APPLICATION

ATTACH A SCALED DRAWING OR PLAT OF THE PROPERTY SHOWING:

1. FLOOR PLANS OF THE PROPOSED BUILDINGS.
2. THE PROPOSED DEVELOPMENT WITH FRONT, SIDE, AND REAR ELEVATIONS.

**THIS REQUEST FOR A CONDITIONAL USE PERMIT IS FILED UNDER SECTION
OF THE ZONING ORDINANCE.**

PRESENT USE OF PROPERTY:

Vacant Land where a previous single family home was located that burned down.

THE CONDITIONAL USE PERMIT WILL ALLOW:

A single family home to be built under previous zoning requirements that allowed for lot square footage to be under 10,000 SQFT.

**PLEASE DEMONSTRATE THAT THE PROPOSAL AS SUBMITTED OR MODIFIED WILL NOT AFFECT
ADVERSELY THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE
NEIGHBORHOOD OF THE PROPOSED USE.**

The proposed new single family home will be built to code and the process will follow all city regulations

**PLEASE DEMONSTRATE THAT THE PROPOSAL WILL NOT BE DETRIMENTAL TO PUBLIC WELFARE
OR INJURIOUS TO THE PROPERTY OR IMPROVEMENTS IN THE NEIGHBORHOOD.**

The proposed new single family home will be built to code and the process will follow all city regulations.

**PLEASE DEMONSTRATE HOW THE PROPOSAL AS SUBMITTED OR MODIFIED WILL CONFORM TO
THE COMPREHENSIVE PLAN AND THE PURPOSES AND THE EXPRESSED INTENT OF THE ZONING
ORDINANCE.**

The proposed property will meet all set back requirements per the city. The property is already zoned for a single family home. The new home will bring value to the neighborhood and freshen up a an otherwise unkept piece of land in a nice neighborhood.

***AS OWNER OF THIS PROPERTY OR THE AUTHORIZED AGENT THEREFOR, I HEREBY CERTIFY THAT
THIS APPLICATION AND ALL ACCOMPANYING DOCUMENTS ARE COMPLETE AND ACCURATE TO THE
BEST OF MY KNOWLEDGE.***

Parker Smith

06/06/2024

APPLICANT SIGNATURE

DATE

Parker Smith

APPLICANT PRINTED NAME

OFFICE USE ONLY

DATE RECEIVED _____ DATE OF ACTION _____

_____ APPROVED _____ DENIED

_____ APPROVED WITH THE FOLLOWING CONDITIONS:

CONDITIONAL USE PERMIT REQUEST

Single-Family Dwelling on a Non-Conforming lot (R-1A)

Parcel #123-0055 - 3104 St. Charles

CITY COUNCIL WORK SESSION

July 23, 2024

CUP REQUEST: SFD on Non-Conforming Parcel #123-0055

- **APPLICANT:** MMS Rental Group, LLC
- **WARD:** 5
- **CURRENT ZONING:** R-1A Residential Low Density
- **REQUEST:** Approve CUP request
- **PUBLIC NOTICE:** Ads in Progress-Index, letters to adjacent property owners



CUP REQUEST: SFD on Non-Conforming Parcel #123-0055



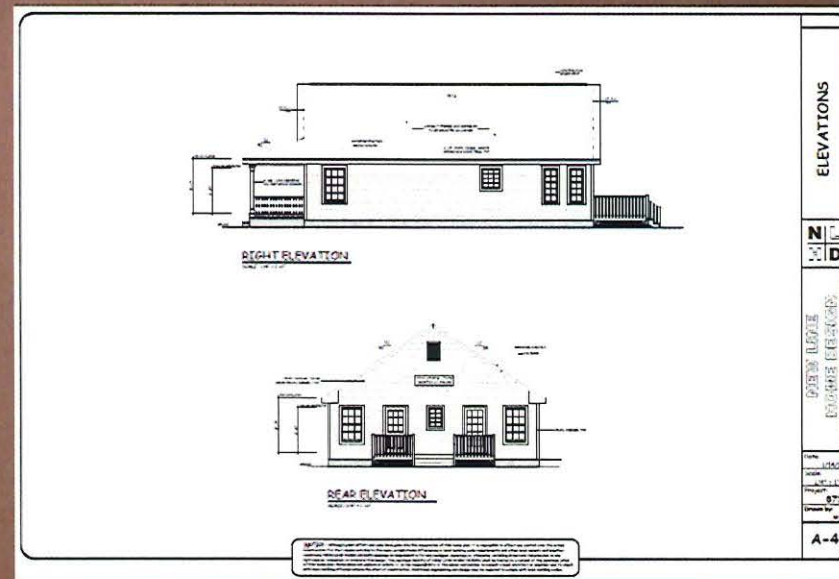
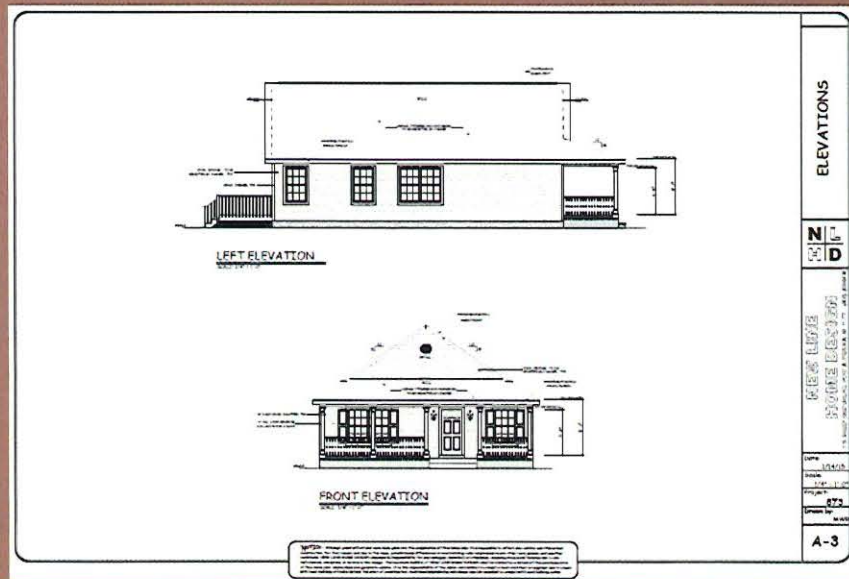
CUP REQUEST: SFD on Non-Conforming Parcel #123-0055

Minimum lot size in R-1A is 75 ft. wide and 10,00sf for SFD.

St. Charles– Parcel #123-0055 is 60 feet wide and ~8,700sf.

Non-Conformity – Lot Width less than 75ft. & total lot size less than 10,000sf.

CUP REQUEST: SFD on Non-Conforming Parcel #123-0055



Staff Analysis

7 CUP Approval Criteria	✓
Comprehensive Plan	✓

1. Will the proposed conditional use be in compliance with all regulations of the applicable zoning district? **YES**
2. Will the proposed conditional use endanger the public health, safety, morals, comfort, or general welfare? **NO**
3. Will the proposed conditional use be injurious to the use and enjoyment of other property in the immediate vicinity? **NO**
4. Will the proposed conditional use conform to the character of the neighborhood within the same zoning district in which it is located? **YES**
5. Will the exterior architectural appeal and functional plan of any proposed structure be at variance with the exterior architectural appeal and functional plan of the structures already constructed in the immediate neighborhood? **NO**
6. Does the public interest and welfare supporting the proposed conditional use sufficiently outweigh the individual interests which are adversely affected by the establishment of the proposed use?
YES
7. Will the proposed use result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance? **NO**

Staff Analysis

7 CUP Approval Criteria	✓
Comprehensive Plan	✓



- Architectural style of proposed dwelling (1-story, 3-BR, 2-BA) will enhance neighborhood of primarily vernacular design.
- Average size of dwellings in the surrounding area is 1,353sf.
- Proposed dwelling is 1,318sf, larger than the approx. 1,000sf dwelling that was previously there.

Staff Recommendation

Staff recommends approval of the CUP with the following conditions:

1. The new structure will have 12” minimum eaves along all roof edges.
2. The lot will have a minimum coverage of 20% tree canopy at full maturity.
3. A driveway will be installed in accordance with the City’s driveway policy:
 1. If installed in front yard, the driveway is to be asphalt or concrete.
 2. If installed in rear yard (off alley), driveway is to be concrete, asphalt or gravel.

Public Comment

Staff has not received any written or spoken comment.

Planning Commission Recommendation

At the public hearing held on July 11, 2024, Planning Commission voted 5-0 to recommend approval of the CUP request with the following conditions:

1. The new structure will have 12” minimum eaves along all roof edges.
2. The lot will have a minimum coverage of 20% tree canopy at full maturity.
3. A driveway of asphalt or concrete will be installed in accordance with the City’s driveway policy.

CUP REQUEST: SFD on Non-Conforming Parcel #123-0055

Questions?

Applicant: MMS Rental Group, LLC, Parker Smith



**REQUEST FOR CONDITIONAL USE PERMIT
TO CONSTRUCT A SINGLE-FAMILY DWELLING ON NON-
CONFORMING PARCEL #123-0055 IN THE R-1A
DISTRICT, LOCATED AT 3104 ST. CHARLES ST.**



PLANNING COMMISSION

STAFF REPORT

Staff from the Hopewell Department of Development has drafted this report to assist City leadership with making informed decisions regarding land use cases in Hopewell.

I. EXECUTIVE SUMMARY

The applicant, MMS Rental Group, LLC, agent for the owner, Robert A Kneaul, requests a Conditional Use Permit to construct a single-family dwelling on non-conforming Parcel #123-0055, also identified as 3104 St. Charles St. in the R-1A District. Staff recommends approval with conditions.

II. TENTATIVE SCHEDULE OF MEETINGS

BODY	DATE	TYPE	RESULT
Planning Commission	July 11, 2024	Public Hearing	Pending
City Council	July 23, 204	Work Session	No Action
City Council	TBD	2 nd Reading / PH	Pending

III. IDENTIFICATION AND LOCATIONAL INFORMATION

Existing Zoning	R-1A Residential Low Density
Requested Zoning	N/A
Acreage	0.216 acres / 9,425 sf
Legal Description	LOT 12 SUBDIVISION: WESTWOOD PLAZA
Election Ward	5
Future Land Use	Urban Residential
Strategic Plan Goal	Housing
Approval Method	City Council Resolution
Can Conditions be Set?	Yes
Map Location	Parcel #123-0055

IV. PUBLIC NOTIFICATION

PUBLIC HEARING	NOTIFICATION TYPE	DATE	DATE
Planning Commission	Progress-Index Ad	6/28/2024	7/5/2024
	Letter to Adj. Properties	6/28/2024	
City Council	Progress-Index Ad	TBD	TBD
	Letter to Adj. Properties	TBD	TBD

V. ROLE OF PLANNING COMMISSION AND CITY COUNCIL

Excerpted and paraphrased from *Handbook for Virginia Mayors & Council Members*

Within each zoning district some uses are permitted as a matter of right and others are only conditionally permitted. The theory behind the conditional use approach is that the particular use has a certain level of negative externality which, if properly managed, could allow the use to be established in the district. Absent proper management, conversely, the use is most likely unacceptable. The Conditional Use Permit process affords a case-by-case review. It is up to the local governing body to establish the conditions under which the Conditional Use Permit is to be approved; applicants/property owners are not required to agree to the conditions imposed for them to be valid and binding on the property. The question being considered is whether the proposed use in the proposed location can be conditioned in such a way as to prevent negative externalities from being imposed on adjacent and nearby properties. Possible negative externalities can comprise a long list that are often spelled out in the ordinance – smoke, dust, noise, trash, light, traffic, incompatible activity levels or hours of operation, likelihood of trespass on adjoining properties, stormwater/drainage runoff, inadequate public infrastructure, and many more.

Conditional Use Permits in Hopewell run with the land and not the owner.

VI. APPLICABLE CODE SECTIONS

- [Article XVII, Non-Conforming Uses, Section F, Non-Conforming Lots of Record](#)
- [Article III-A, Residential, Low-Density District \(R-1A\)](#)

VII. SUBJECT PROPERTY

The subject property, Parcel #123-0055, is a non-conforming lot on St. Charles Street towards near the intersection with Terrace Avenue. The property dimensions are 60 feet wide by 145 feet deep for a total of 9,425 square feet. The R-1A District sets the minimum lot width at 75 feet and the minimum lot size for a single use at 10,00 square feet. The lot width and total area are less than the required minimums, making it non-conforming to the R-1A District.

VIII. APPLICANT POSITION

The subject property previously contained a single-family dwelling (approximately 1,000sf) that was likely constructed in the 1960s but substantially burned down a few years ago. Due to its unsafe condition, the property ended up on the City's Spot Blight list and was ultimately demolished and cleared. The applicant proposes to construct a new, 1-story, 3-bedroom, 2 full bath, 1,318 square foot house on an unkept lot and will bring value to the neighborhood.

IX. STAFF ANALYSIS

When considering a conditional use permit, one must consider the seven conditions outlined in Article XXI of the Zoning Ordinance. Conditions may be mandated to ensure the character of the neighborhood and zoning district in which the use is locating will not be adversely affected. Such conditions may address architectural style, materials, landscaping, enhanced storm water management, or any other required condition that mitigates any potential negative impact with the goal of maintaining or enhancing the surrounding neighborhood.

The surrounding properties are typical 1-story ranchers with brick, aluminum or vinyl siding with an average size of 1,353sf.

The proposed new single-family dwelling will meet all district setbacks, as required by the ordinance.

X. RELATIONSHIP TO THE COMPREHENSIVE PLAN

AGE OF HOUSING

Hopewell has seen lower levels of new development in recent decades when compared to other cities in the region and state, with a drastic slowdown beginning in the 1980s. For this reason, the city now has an aging stock of housing units, with nearly 80% of all units built in the 1970s or earlier (Hopewell Comprehensive Plan 2018, pg. 202).

THE FUTURE LAND USE PLAN

Stable areas are fully built-out and are not viewed as available strategic opportunity areas for future growth. This leaves infill development and redevelopment employing Traditional Neighborhood Design (TND) and Urban Development Area (UDA) principles as the land use form upon which City leaders must focus. It is important to distinguish between the two. Infill attempts to "seed" (or catalyze) a progressive movement to gradually upgrade the value and attractiveness of a given neighborhood or commercial area. Redevelopment focuses on larger properties or groups of

properties that are substantially deteriorated or vacant, with potential economic value for the entire community.

Infill development and redevelopment projects can have substantial benefits for Hopewell. This will not occur without City guidance and planning initiatives. Communities that have pursued active infill and redevelopment programs have realized a strengthening of their real estate market by renewing housing stock and readapting sub-standard neighborhoods and sub-par commercial areas. *Hopewell Comprehensive Plan 2018, pg. 117).

XI. STAFF RECOMMENDATION

A survey of the properties on this block reveals a homogenous collection of 1-story homes ranging in size from 988sf to 2,314sf with mostly vinyl or aluminum siding. A large majority of the lots meet the minimum lot size and width requirements; however, the two closest to the subject lot are similar in size and non-conforming to the district, as well. The proposed house falls just short of the average size but the style and materials are consistent with the neighborhood.

“As may be specified within each zoning district, uses permitted subject to conditional use review criteria shall be permitted only after review by the Planning Commission and approval by the City Council only if the applicant demonstrates that:

4. The proposed conditional use conforms to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety or comfort of persons living or working in or driving through the neighborhood, and shall be no more injurious to property or improvements in the neighborhood, than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to location, type, size, and height of buildings or structures, type and extent of landscaping and screening on the site, and whether the proposed use is consistent with any theme, action, policy or map of the Comprehensive Plan.”

For these reasons, Staff supports the approval of this application with the following conditions:

1. The new structure will have 12-inch minimum eaves along all roof edges.
2. The lot will have a minimum coverage of 20% tree canopy at full maturity.
3. A driveway will be installed in accordance with the City’s driveway policy:
 - a. if installed in the front yard, the driveway will be constructed of asphalt or concrete
 - b. If installed in the rear yard, the driveway will be constructed of gravel, asphalt or concrete.

XII. PLANNING COMMISSION RECOMMENDATION

The Hopewell Planning Commission voted 5-0 to recommend approval with the following conditions:

1. The proposed single-family dwelling will be in substantial conformance with the house design submitted with the CUP application.
2. The proposed single-family dwelling will have a minimum of 12" eaves along all roof edges.
3. The lot will have a minimum tree canopy coverage of at least 20% at time of full maturity.
4. A driveway of concrete or asphalt will be installed in accordance with the City's driveway policy.

XIII. PUBLIC COMMENT

To date, no public comment has been received.

APPENDIX A - MAPS

CITY LOCATIONAL MAP – Yellow Circle indicates general area



PROPERTY LOCATION – Red box indicates Parcel #123-0055



APPENDIX B – SURROUNDING AREA DATA

SURROUNDING PROPERTIES - PARCEL #123-0055

3104 St.
Charles

	ADDRESS	STORIES	HOUSE SQ FT	WIDTH	DEPTH	LOT SQ FT	MATERIAL	YR BUILT	TYPE
1	3106 ST CHARLES	1	1260	62.5	145	9,062.5	BRICK	1964	SF
2	3108 ST CHARLES	1	1182	60	145	8,700	VINYL	1970	SF
3	3200 ST CHARLES	1	1272	75	145	10,875	VINYL	1962	SF
4	3201 ST CHARLES	1	1305	75	145	10,875	ALUM	1962	SF
5	3202 ST CHARLES	1	1516	75	145	10,875	VINYL	1962	SF
6	3203 ST CHARLES	1	1228	75	145	10,875	VINYL	1962	SF
7	3204 ST CHARLES	1	1226	75	145	10,875	BRICK	1962	SF
8	3205 ST CHARLES	1	1289	75	145	10,875	ALUM	1962	SF
9	3206 ST CHARLES	1	2314	75	145	10,875	VINYL	1962	SF
10	3207 ST CHARLES	1	988	75	145	10,875	VINYL	1962	SF

11	3208 ST CHARLES	1	1306	75	145	10,875	ALUM	1962	SF
	AVERAGE	1	1,353	72.5	145	10,512	VINYL		
	#123-0055	1	1,318	60	145	9,425	VINYL		SF

BLUE = Proposed house

WS-2

423487-0001 "Spect... 202406451CUP - 2024
0 - Timberly... 05/20/2024 12:35PM
CONDITIONAL USE PERMIT - REVIEW
Payment Amount:
Transaction Amount:
CHECK: 002761 300.00
300.00



The City
of
Hopewell, Virginia

300 N. Main Street · Department of Development · (804) 541-2220 · Fax: (804) 541-2318

RECEIVED
MAY 20 2024

CONDITIONAL USE PERMIT APPLICATION

APPLICATION FEE: \$300

Application #: 20240645

Permit #: _____

APPLICATION #

By River City Ventures, LLC
APPLICANT: _____
ADDRESS: 710 N Hamilton St
Richmond, VA 23221
PHONE #: 804-201-8214 FAX #: 804-358-6206
EMAIL ADDRESS: ERICA.P@AYERSLAW.COM

INTEREST IN PROPERTY: X OWNER OR _____ AGENT
IF CONTRACT PURCHASER, PROVIDE A COPY OF THE CONTRACT OR A LETTER
OF THE PROPERTY OWNER'S CONSENT TO MAKE APPLICATION.

OWNER: River City Ventures, LLC
ADDRESS: 710 N Hamilton St
Richmond, Virginia 23221
PHONE #: 804-201-8214 FAX #: 804-358-6206

PROPERTY ADDRESS / LOCATION:
3421 Oaklawn Blvd.

PARCEL #: 0891060 ACREAGE: .298 ZONING: B4

*** IF REQUIRED BY ARTICLE 16 OF THE ZONING ORDINANCE, ***
A SITE PLAN MUST ACCOMPANY THIS APPLICATION

ATTACH A SCALED DRAWING OR PLAT OF THE PROPERTY SHOWING:

- 1. FLOOR PLANS OF THE PROPOSED BUILDINGS. _____
- 2. THE PROPOSED DEVELOPMENT WITH FRONT, SIDE, AND REAR ELEVATIONS. ✓

THIS REQUEST FOR A CONDITIONAL USE PERMIT IS FILED UNDER SECTION _____ OF THE ZONING ORDINANCE.

PRESENT USE OF PROPERTY:

SINGLE FAMILY RESIDENCE w/garage

THE CONDITIONAL USE PERMIT WILL ALLOW:

SINGLE FAMILY RESIDENCE w/garage

PLEASE DEMONSTRATE THAT THE PROPOSAL AS SUBMITTED OR MODIFIED WILL NOT AFFECT ADVERSELY THE HEALTH, SAFETY, OR WELFARE OF PERSONS RESIDING OR WORKING IN THE NEIGHBORHOOD OF THE PROPOSED USE.

NO AFFECT ADVERSELY - EXISTING

PLEASE DEMONSTRATE THAT THE PROPOSAL WILL NOT BE DETRIMENTAL TO PUBLIC WELFARE OR INJURIOUS TO THE PROPERTY OR IMPROVEMENTS IN THE NEIGHBORHOOD.

WILL NOT BE DETRIMENTAL - EXISTING

PLEASE DEMONSTRATE HOW THE PROPOSAL AS SUBMITTED OR MODIFIED WILL CONFORM TO THE COMPREHENSIVE PLAN AND THE PURPOSES AND THE EXPRESSED INTENT OF THE ZONING ORDINANCE.

MAJORITY OF PROPERTY IS RESIDENTIAL

AS OWNER OF THIS PROPERTY OR THE AUTHORIZED AGENT THEREFOR, I HEREBY CERTIFY THAT THIS APPLICATION AND ALL ACCOMPANYING DOCUMENTS ARE COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE


APPLICANT SIGNATURE

5/16/24
DATE

CHARLES AYERS - MANAGER/OWNER
APPLICANT PRINTED NAME

OFFICE USE ONLY

DATE RECEIVED 5-20-24

DATE OF ACTION _____

APPROVED _____
DENIED

APPROVED WITH THE FOLLOWING CONDITIONS:

City of Hopewell, VA

Summary

Parcel ID 0891060
Tax ID 0891060
Neighborhood 400
Property Address 3421 Oaklawn Blvd
 Hopewell, VA 23860
Legal Description REM PT OF LOTS 25-26-27 BLK 20 SUBDIVISION: WOODLAWN
 (Note: Not to be used on legal documents)
Acreage N/A
Class 1 - 1 Single Family Urban
Tax District/Area 07

[View Map](#)



Owner

Primary Owner
 River City Ventures LLC
 710 N Hamilton St #300
 Richmond, VA 23221

Site Description

Zoning B4

Land

Land Type	Soil ID	Actual Front	Acreage	Effect. Front	Effect. Depth	Prod Factor	Depth Factor	Meas Sq Ft	Base Rate	Adj Rate	Extended Value	Influ. Factor	Value
Primary Commercial/Indust Land		75.000	0.298		177.500	1.00		13,485	6.50	6.50	87,700.00	9 -15% E	87,700.00

Land Detail Value Sum 87,700.00

Residential Dwellings

Card 01
Residential Dwelling 1
Occupancy
Story Height 1.50
Roofing Material: Asphalt shingles
Attic None
Basement Type None
Basement Rec Room None
Finished Rooms 8
Bedrooms 4
Family Rooms 0
Dining Rooms 0
Full Baths 2; 6-Fixt.
Half Baths 0; 0-Fixt.
4 Fixture Baths 0; 0-Fixt.
5 Fixture Baths 0; 0-Fixt.
Kitchen Sinks 1; 1-Fixt.
Water Heaters 1; 1-Fixt.
Central Air ~~No~~ **YES**
Primary Heat Heat pump
Extra Fixtures 0
Total Fixtures 8
Fireplace Yes
Features Masonry fireplace
Porches and Decks Open Frame Porch 212
Yd Item/Spc Fture/Outbldg Wood frame w/sheathing Residential Detached Garage 540 SF
Last Updated 11/29/2023

Construction	Exterior Cover	Floor	Base Area (sf)	Fin. Area (sf)
Wood frame	Alum siding	1.0	1174	1174
Wood frame	Alum siding	1.5	1018	614
		Crawl	1174	0
		Total	2192	1788

Improvements

Card 01

ID	Use	Const Type	Grade	Year Const	Year Eff	Cond	Base Rate	Features	Adj Rate	Size/ Area	Cost Value	Phys Depr	Obsol Depr	Mrkt Adj	% Comp	Value
01	DETGAR	Wood frame w/sheathing	C	1950	1950	AV	31.33	MAS	31.33	20 x 27	16920	55	0	100	100	174300

Transfers

Date	Owner 1	Owner 2	Book & Page	Document #	Amount
6/7/2023	COMPASSIONATE CARE FOR YOU LLC			230001199	\$159,000
12/1/2021	HARRISON EARNEST W			210003596	\$350,000
12/1/2021	HARRISON EARNEST W & SUSAN P HOLZNER			210003595	\$100,000
8/8/2019	HARRISON EARNEST W & DTS FLAT BED SE			190001686	\$0
12/29/2015	THOMAS JULIE B & JOHN BURNETT JR			150002407	\$155,000
11/21/2013	BURNETT PEGGY H			CWF130000111	\$0
11/21/2013	BURNETT PEGGY H AND JOHN R			CWF130000110	\$0
4/19/1999	BURNETT PEGGY H		316/550		\$1
12/29/1998	HACHELL LILLIAN C		WB 19/854		\$1
4/15/1990	HACHELL J H		WB 15/41		\$0
1/1/1932	PRINCE GEORGE DEED			PRIGEO	\$0

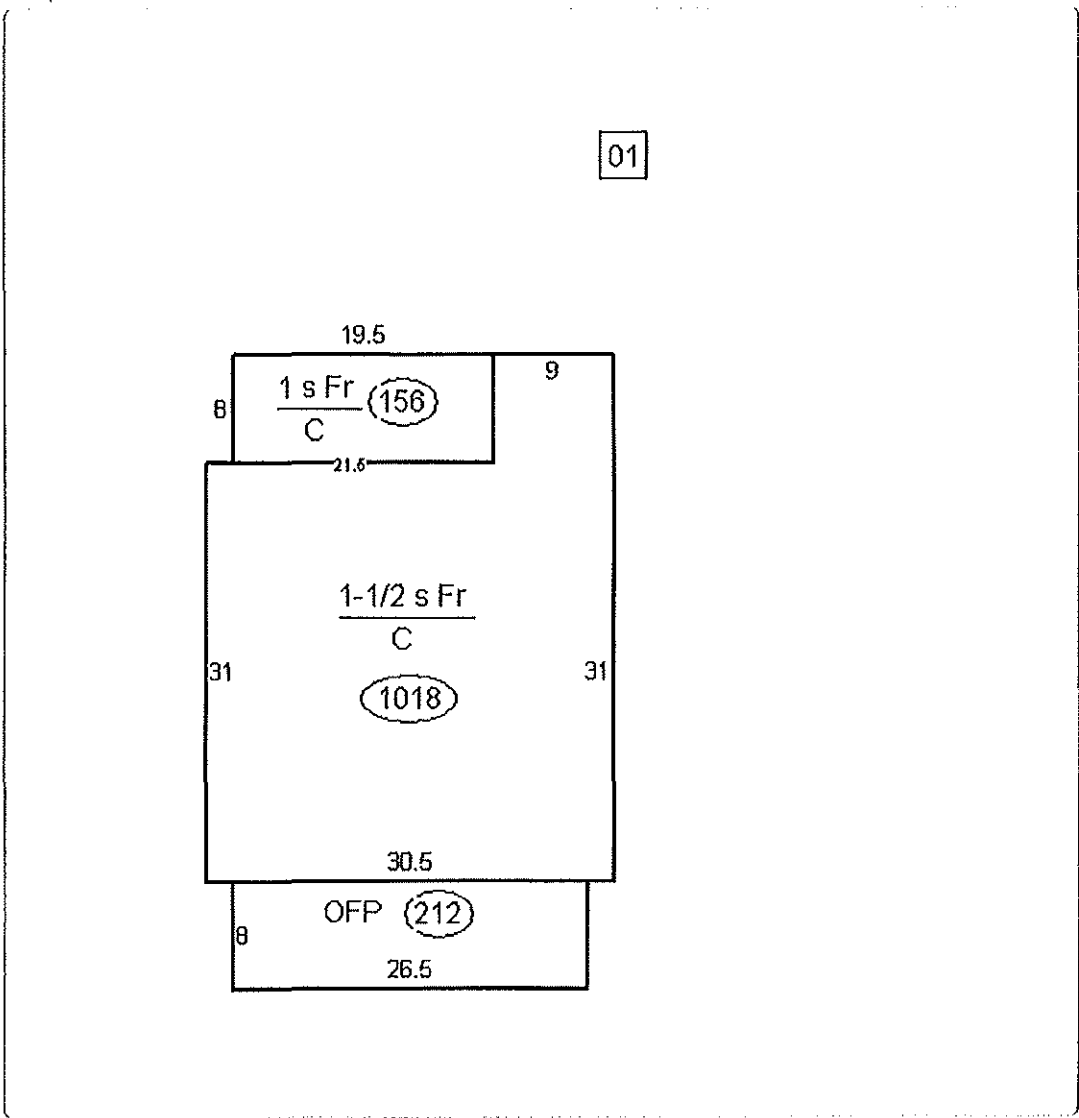
Valuation

Assessment Year		12/31/2023	01/01/2023	01/01/2021	01/01/2019	01/01/2017
Reason for Change		NC	Reassessment	Reassessment	Reassessment	Reassessment
VALUATION	Land	\$87,700	\$87,700	\$87,700	\$87,700	\$87,700
(Assessed Value)	Improvements	\$181,900	\$70,000	\$17,000	\$14,700	\$14,700
	Total	\$269,600	\$157,700	\$104,700	\$102,400	\$102,400

Photos



Sketches



No data available for the following modules: Commercial Buildings.

The City of Hopewell Assessor's Office makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation.
[User Privacy Policy](#) | [GDPR Privacy Notice](#)
Last Data Upload: 5/13/2024, 11:40:29 AM

Contact Us



360 Property View

3421 Oaklawn Blvd, Hopewell, VA 23860-4705, Hopewell County

Photos









City of Hopewell, VA
 Dept. of Code Enforcement
 300 N. Main Street
 Hopewell, VA 23860
 804-541-2220
 Welcome

05/20/2024 12:35PM Kimberly
 325487-0001 000223536
 Payment Effective Date 05/20/2024

PERMITS / INSPECTIONS

CONDITIONAL USE PERMIT -
 REVIEW

2024 Item: 20240645|CUP \$300.00

Payment Id: 353991

 \$300.00

Subtotal \$300.00

Total \$300.00

CHECK \$300.00

Check Number 002761

Change due \$0.00



Thank you for your payment.

City of Hopewell, VA COPY
 DUPLICATE RECEIPT

Chesapeake Bank 3421 Oaklawn Blvd

300.00

River City Ventures, LLC
 City of Hopewell

051624 City of Hopewell/Conditional Use Permit App 5/16/2024

300.00

00276



**REQUEST FOR CONDITIONAL USE PERMIT
TO UTILIZE AN EXISTING STRUCTURE AS A SINGLE-
FAMILY DWELLING ON PARCEL #089-1060 IN THE
B-4 DISTRICT, LOCATED AT 3421 OAKLAWN BLVD.**



PLANNING COMMISSION

STAFF REPORT

Staff from the Hopewell Department of Development has drafted this report to assist City leadership with making informed decisions regarding land use cases in Hopewell.

I. EXECUTIVE SUMMARY

The applicant, Charles Ayers of River City Ventures, LLC, requests a Conditional Use Permit to utilize an existing structure on Parcel #089-1060, also identified as 3421 Oaklawn Blvd., as a Single-Family Dwelling in the Corridor Development District (B-4). Staff recommends approval with conditions.

II. TENTATIVE SCHEDULE OF MEETINGS

BODY	DATE	TYPE	RESULT
Planning Commission	July 11, 2024	Public Hearing	Pending
City Council	July 23, 2024	Work Session	No Action
City Council	TBD	2 nd Reading / PH	Pending

III. IDENTIFICATION AND LOCATIONAL INFORMATION

Existing Zoning	B-4, Corridor Development District
Requested Zoning	N/A
Acreage	0.298 acres / 13,312.5 sf
Legal Description	REM PT OF LOTS 25-26-27 BLK 20 SUBDIVISION: WOODLAWN
Election Ward	7
Future Land Use	Corridor Commercial
Strategic Plan Goal	Housing
Approval Method	City Council Resolution
Can Conditions be Set?	Yes
Map Location	Parcel #089-1060

IV. PUBLIC NOTIFICATION

PUBLIC HEARING	NOTIFICATION TYPE	DATE	DATE
Planning Commission	Progress-Index Ad	6/28/2024	7/5/2024
	Letter to Adj. Properties	6/28/2024	
City Council	Progress-Index Ad	TBD	TBD
	Letter to Adj. Properties	TBD	TBD

V. ROLE OF PLANNING COMMISSION AND CITY COUNCIL

Excerpted and paraphrased from *Handbook for Virginia Mayors & Council Members*

Within each zoning district some uses are permitted as a matter of right and others are only conditionally permitted. The theory behind the conditional use approach is that the particular use has a certain level of negative externality which, if properly managed, could allow the use to be established in the district. Absent proper management, conversely, the use is most likely unacceptable. The Conditional Use Permit process affords a case-by-case review. It is up to the local governing body to establish the conditions under which the Conditional Use Permit is to be approved; applicants/property owners are not required to agree to the conditions imposed for them to be valid and binding on the property. The question being considered is whether the proposed use in the proposed location can be conditioned in such a way as to prevent negative externalities from being imposed on adjacent and nearby properties. Possible negative externalities can comprise a long list that are often spelled out in the ordinance – smoke, dust, noise, trash, light, traffic, incompatible activity levels or hours of operation, likelihood of trespass on adjoining properties, stormwater/drainage runoff, inadequate public infrastructure, and many more.

Conditional Use Permits in Hopewell run with the land and not the owner.

VI. APPLICABLE CODE SECTIONS

- [1. Article XVII, Non-Conforming Uses, Section F, Non-Conforming Lots of Record](#)
- [2. Article XI-A, Section A, Item 41, Corridor Development District \(B-4\)](#)

VII. SUBJECT PROPERTY

The subject property, Parcel #089-1060, is a non-conforming lot on Oaklawn Boulevard towards the middle of block between Surry Avenue and Wilmington Avenue. The property dimensions are 75 feet wide by 177.5 feet deep for a total of 13,312.5 square feet. The B-4 Corridor Development District sets the minimum lot width at 100 feet and the minimum lot size for a single use at 12,00 square feet. The lot width is less than the required minimum,

making it non-conforming to the B-4 District. In addition, the B-4 District requires an approved Conditional Use Permit prior to the use of a property as a Single-Family Dwelling.

Lastly, the property does not have a driveway that conforms to city standards.

VIII. APPLICANT POSITION

The applicant argues that a majority of property in the area is currently used as single-family dwellings and the continued use of this property as a single-family dwelling will not have an adverse effect on neighboring properties.

IX. STAFF ANALYSIS

When considering a conditional use permit, one must consider the seven conditions outlined in Article XXI of the Zoning Ordinance. Conditions may be mandated to ensure the character of the neighborhood and zoning district in which the use is locating will not be adversely affected. Such conditions may address architectural style, materials, landscaping, enhanced storm water management, or any other required condition that mitigates any potential negative impact with the goal of maintaining or enhancing the surrounding neighborhood.

Staff submits that this property has always been used as a single-family dwelling and its continued use as a single-family dwelling will not adversely impact the surrounding area.

X. RELATIONSHIP TO THE COMPREHENSIVE PLAN

AGE OF HOUSING

Hopewell has seen lower levels of new development in recent decades when compared to other cities in the region and state, with a drastic slowdown beginning in the 1980s. For this reason, the city now has an aging stock of housing units, with nearly 80% of all units built in the 1970s or earlier (Hopewell Comprehensive Plan 2018, pg. 202).

THE FUTURE LAND USE PLAN

Stable areas are fully built-out and are not viewed as available strategic opportunity areas for future growth. This leaves infill development and redevelopment employing Traditional Neighborhood Design (TND) and Urban Development Area (UDA) principles as the land use form upon which City leaders must focus. It is important to distinguish between the two. Infill attempts to “seed” (or catalyze) a progressive

movement to gradually upgrade the value and attractiveness of a given neighborhood or commercial area. Redevelopment focuses on larger properties or groups of properties that are substantially deteriorated or vacant, with potential economic value for the entire community.

Infill development and redevelopment projects can have substantial benefits for Hopewell. This will not occur without City guidance and planning initiatives. Communities that have pursued active infill and redevelopment programs have realized a strengthening of their real estate market by renewing housing stock and readapting sub-standard neighborhoods and sub-par commercial areas. *Hopewell Comprehensive Plan 2018, pg. 117).

XI. STAFF RECOMMENDATION

Of the fifteen (15) properties on this block of Oaklawn Boulevard, thirteen (13) are were originally constructed and are currently used as single-family dwellings. The Hopewell Zoning Ordinance has permitted single-family dwellings with a Conditional Use Permit in the B-4 district for many decades and does not detract from the overall commercial nature of the district or prevent future commercial development.

Staff recently recommended the approval of a Conditional Use Permit to use a property at the other end of this block as a single-family dwelling (3400 Oaklawn). In that particular case, a sunset provision on the use was recommended (and ultimately approved by City Council) because the property had previously been used as a commercial property. Staff's research of the property in question has revealed that it has always been used as a single-family dwelling.

"As may be specified within each zoning district, uses permitted subject to conditional use review criteria shall be permitted only after review by the Planning Commission and approval by the City Council only if the applicant demonstrates that:

4. The proposed conditional use conforms to the character of the neighborhood within the same zoning district in which it is located. The proposal as submitted or modified shall have no more adverse effects on health, safety or comfort of persons living or working in or driving through the neighborhood, and shall be no more injurious to property or improvements in the neighborhood, than would any other use generally permitted in the same district. In making such a determination, consideration shall be given to location, type, size, and height of buildings or structures, type and extent of landscaping and screening on the site, and whether the proposed use is consistent with any theme, action, policy or map of the Comprehensive Plan."

For these reasons, Staff supports the approval of this application with the following conditions:

- a. The applicant must complete an administrative resubdivision to combine Lots 25, 26, and 27 into one lot.
- b. The applicant will improve the existing, overgrown gravel driveway in the rear yard with a new top dressing of gravel.

XII. PLANNING COMMISSION RECOMMENDATION

The Hopewell Planning Commission voted 3-2 to recommend approval of the CUP application with the following conditions:

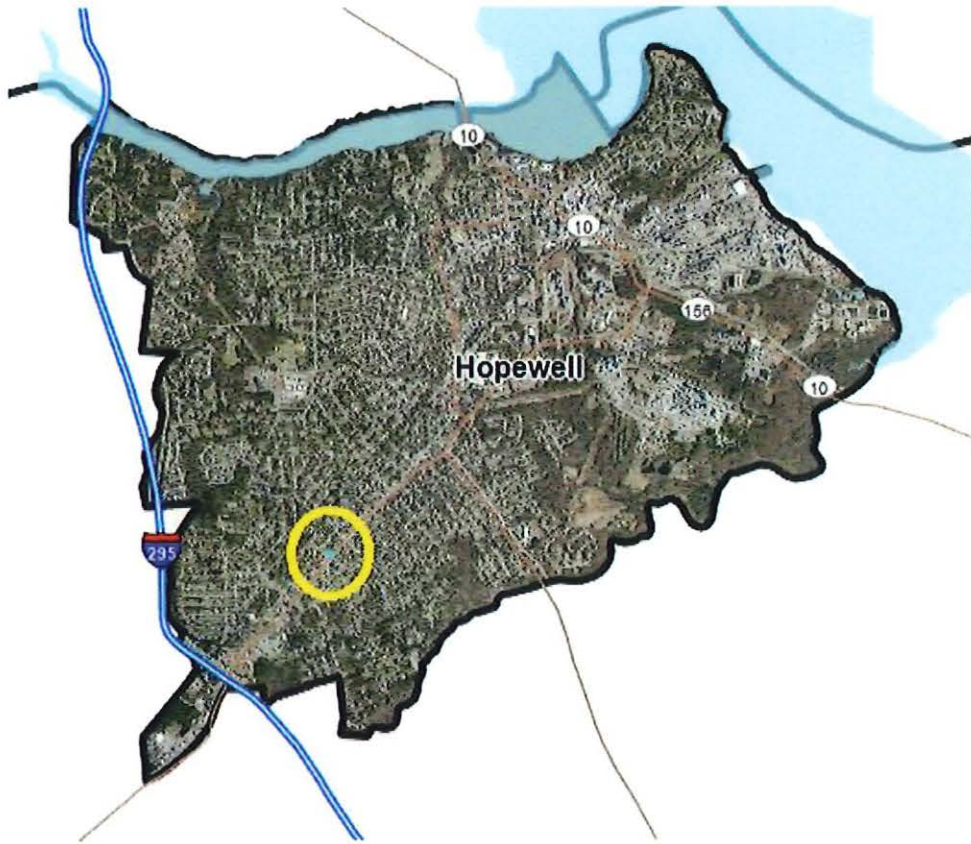
1. The applicant will complete an Administrative Resubdivision to combine Lots 25, 26, and 27 into one lot.
2. The applicant will improve the existing overgrown gravel driveway in the rear yard with a new top dressing of gravel.

XIII. PUBLIC COMMENT

To date, no public comment has been received.

APPENDIX A - MAPS

CITY LOCATIONAL MAP – Yellow Circle indicates general area



PROPERTY LOCATION – Red box indicates Parcel #089-1060



APPENDIX B – SURROUNDING AREA DATA

ADDRESS	PARCEL	USE
3416 Oaklawn	089-1365	Single-Family Dwelling use
3414 Oaklawn	089-1370	Single-Family Dwelling use
3412 Oaklawn	089-1375	Commercial use
3410 Oaklawn	089-1380	Single-Family Dwelling use
3404 Oaklawn	089-1385	Single-Family Dwelling use
3402 Oaklawn	089-1390	Single-Family Dwelling use
3400 Oaklawn	089-1395	Single-Family Dwelling use
3401 Oaklawn	089-1105	Commercial use
3403 Oaklawn	089-1100	Single-Family Dwelling use
3405 Oaklawn	089-1096	Single-Family Dwelling use
3407 Oaklawn	089-1095	Single-Family Dwelling use
3409 Oaklawn	089-1090	SFD use CUP under consideration
3417 Oaklawn	089-1070	Single-Family Dwelling use
3419 Oaklawn	089-1065	Single-Family Dwelling use

CONDITIONAL USE PERMIT REQUEST
to allow Single-Family Dwelling use (B-4)
Parcel #089-1060 - 3421 Oaklawn Blvd.

CITY COUNCIL WORK SESSION
July 23, 2024

CUP REQUEST: SFD Use in B-4

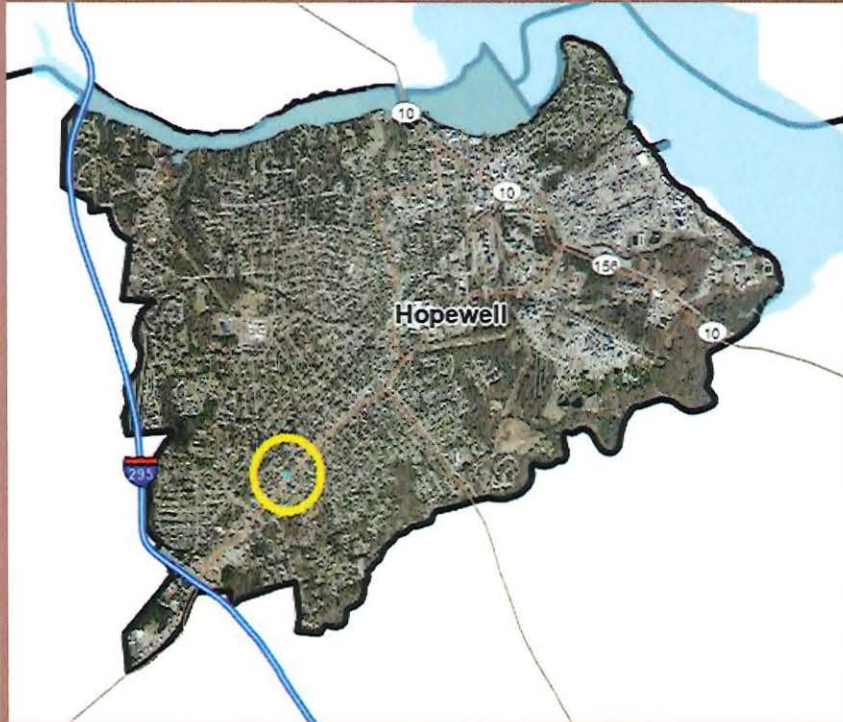
Parcel #089-1060

- **APPLICANT:** River City Ventures, LLC
- **WARD:** 7
- **CURRENT ZONING:** B-4 Corridor Development District
- **REQUEST:** Allow SFD Use in B-4
- **PUBLIC NOTICE:** Ads in Progress-Index, letters to adjacent property owners, sign placed at property



CUP REQUEST: SFD Use in B-4

Parcel #089-1060



Staff Analysis

7 CUP Approval Criteria	✓
Comprehensive Plan	✓

- Property was originally constructed for and always used as a single-family dwelling.
- Property has been vacant for more than two years.

Impacts on the Neighborhood

- A proper driveway does not exist and vehicles are often parked in the grass.

CUP REQUEST: SFD Use in B-4

Parcel #089-1060



CUP REQUEST: SFD Use in B-4

Parcel #089-1060

1. Will the proposed conditional use be in compliance with all regulations of the applicable zoning district?
2. Will the proposed conditional use endanger the public health, safety, morals, comfort, or general welfare?
3. Will the proposed conditional use be injurious to the use and enjoyment of other property in the immediate vicinity?
4. Will the proposed conditional use conform to the character of the neighborhood within the same zoning district in which it is located?
5. Will the exterior architectural appeal and functional plan of any proposed structure be at variance with the exterior architectural appeal and functional plan of the structures already constructed in the immediate neighborhood?
6. Does the public interest and welfare supporting the proposed conditional use sufficiently outweigh the individual interests which are adversely affected by the establishment of the proposed use?
7. Will the proposed use result in the destruction, loss or damage of any feature determined to be of significant ecological, scenic or historic importance?

• Adapted from Article XXI, D, 1(d) of the Hopewell Zoning Ordinance; see staff report pg 3 for full text

Staff Recommendation

Staff recommends approval of the CUP with the following conditions:

1. The applicant will complete an Administrative Resubdivision to combine Lots 25, 26, and 27 into one lot.
1. The applicant will improve the existing overgrown gravel driveway in the rear yard with a new top dressing of gravel.

Public Comment

Staff has not received any written or spoken comment.

Planning Commission public hearing held on July 11, 2024.

Planning Commission Recommendation

Planning Commission voted 3-2 (July 11, 2024) to recommend approval with the following conditions:

1. The applicant will complete an Administrative Resubdivision to combine Lots 25, 26, and 27 into one lot.
2. The applicant will improve the existing overgrown gravel driveway in the rear yard with a new top dressing of gravel.

CUP REQUEST: SFD Use in B-4

Parcel #089-1060

Questions?

Applicant: River City Ventures, LLC, Charles Ayers

REGULAR MEETING

CONSENT
AGENDA

C-1

MINUTES OF THE JUNE 11, 2024 CITY COUNCIL REGULAR MEETING

A REGULAR meeting of the Hopewell City Council was held on Tuesday June 11, 2024 at 6:00 p.m.

PRESENT: John B. Partin, Mayor
Jasmine Gore, Vice Mayor
Rita Joyner, Councilor
Michael Harris, Councilor
Janice Denton, Councilor
Brenda Pelham, Councilor
Dominic Holloway, Councilor (Virtual)

CLOSED MEETING:

Councilor Joyner makes a motion to go into closed meeting pursuant to Va. Code Section § 2.2-371 1 (A)(I) to discuss and consider personnel matters, including board and commission appointments; the assignment and performance of specific appointee and employees of City Council, and to the extent such discussion will be aided thereby, Councilor Harris seconds the motion.

ROLL CALL	Mayor Partin-	Yes
	Vice Mayor Gore-	(Absent)
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	Yes
	Councilor Joyner-	Yes
	Councilor Harris-	Yes

Motion Passes 6-0

Councilor Harris makes a motion to allow Councilor Holloway to participate remotely. Councilor Joyner seconds the motion.

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	(Absent)
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Abstain)
Councilor Joyner-	Yes
Councilor Harris-	Yes

Motion Passes 5-0

Reconvene Open Meeting

Councilor Joyner makes a motion to reconvene open meeting. Councilor Denton seconds the motion.

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	Yes

Motion Passes 5-0

Councilor Denton makes a motion to appoint Paul Reynolds to the FOLAR

Board and Sarah Fuller to the Recreation Commission. Councilor Joyner seconds the motion.

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	Yes

Motion Passes 6-0

CERTIFICATION:

CERTIFICATION PURSUANT TO VIRGINIA CODE §2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	Yes

Motion Passes 5-0

WORK SESSION

WS1- FY25 Smart Scale Round 6 Applications – Michael Campbell, Public Works Director. Here today to discuss the Round 6 SmartScale applications. He wants to give council a chance to take a look at what they have applied for, what it is based off of and the fact that he will be hopefully at the next meeting to ask for a resolution of support for these Grant applications. He mentions he did an addendum sheet he gave to the clerk to give a little bit of background he wanted you to have as a point of reference. We have four applications on behalf of the city. You'll see five up here, one is from the MPO, the Metropolitan Planning Organization. We have three applications for the Winston Churchill Corridor. The whole application is what we'll go through, is the MPO application, that's the entire corridor in question and then the phase one and phase two that we have, those are city applications. He presents on east Randolph Road and gives the demographics of the location of it. He then goes over phase two of the Courthouse Road Pedestrian improvements and explains why it is considered phase 2. He mentions phase one is already in preliminary engineering, that's an existing project that we got money from the federal government earmarked. Mr. Campbell discusses the splitting up of the phase one project. He comments it will be an absolute total makeover of the corridor and compares it to the city having a Monument Avenue. We have the opportunity to put whatever we like in those roundabouts as far as decorations, statues and memorials. Pedestrian improvements would be fantastic, the traffic congestion and mitigation doesn't get any better than these designs. These studies are all based off of pipeline studies. VDOT identified these corridors as needing help for safety reasons predominantly but also congestion, mitigation and pedestrian access. He states in this stretch of Winston Churchill, there have been fatalities and injuries. From 2016 to 2020, they lumped serious injuries and fatalities together, the number is 48. Those are 90-degree collisions called angled crashes, and roundabouts don't allow those. That's the idea here; that and congestion mitigation. He mentions in phase one they are looking at \$10 million. These projects, if funded through smart scale, are 100 % reimbursable, there's no City match. Mr. Campbell details the Phase two changes to Oaklawn Boulevard. Phase two is continued, three intersections altogether. Phase two would be two intersections that takes us to \$17.5 million. We are looking at a total, if you did it this way about \$26 million give or take. We don't have an estimate yet for this MPO application. Mr. Campbell mentions they have

to have everything in as a city, for a resolution of support by August 1st. They have until September 1st. Mr. Campbell states the estimate is forthcoming for the total cost of the project in all likelihood of the corridor would be less than if you added phase one and phase two and still probably looking at \$25 million dollars. Again, not asking for any money from the city. He discusses conceptual plans to Randolph Road, as he points out we want to do something with this intersection because we're looking at serious accidents rated a K. we are already in preliminary engineering for a smart scale project for the shared use path that ends around City Hall. He describes some changes to Route 10 as well as lowering the speed limit to 25 throughout the corridor. This project is \$20 million almost \$21 million. He mentions this is to give council a chance to take a look at this and ask any questions you may have. He mentions various improvements of paths around city hall and shows slides of where we are at in the project pipeline. He talks about the stakeholders and departmental meetings being held to discuss the suggestions and conceptual plans. The cost for the study for Winston Churchill was \$262,000 and the cost for the Route 10 corridor was \$282,000, no city dollars. Mr. Campbell states he will ask for a resolution of support because it's the right thing to do. He talks about a current support resolution and current projects being done in Hopewell.

REGULAR MEETING

Mayor Partin calls the Regular Meeting to order

PRESENT: John B. Partin, Mayor
Jasmine Gore, Vice Mayor
Rita Joyner, Councilor
Michael Harris, Councilor
Janice Denton, Councilor
Brenda Pelham, Councilor
Dominic Holloway, Councilor(Absent)

Prayer by Pastor Harville, followed by the Pledge of Allegiance led by Mayor Partin.

Councilor Joyner makes a motion to adopt an amended agenda with an R2 item for GSA schedule by Dr. Manker. Councilor Pelham seconds the motion.

ROLL CALL	Mayor Partin-	Yes
	Vice Mayor Gore-	Yes
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	(Absent)
	Councilor Joyner-	Yes
	Councilor Harris-	Yes

Motion Passes 6-0

Councilor Denton makes a motion to adopt the Consent Agenda. Councilor Pelham seconds the motion.

ROLL CALL	Mayor Partin-	Yes
	Vice Mayor Gore-	Yes
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	(Absent)
	Councilor Joyner-	Yes
	Councilor Harris-	Yes

Motion Passes 6-0

INFORMATION/ PRESENTATIONS

1. **Report Out** – Heather Ness, Robert Bobb Group. Ms. Ness gives an update on where we are, the GSA schedule overview and close with items needing action. Progress to date, we still have our fiscal year 2019 and 2020

audit packages in with Robinson Farmer Cox. She informs council of the status of items with Robinson Farmer Cox. We have also fully submitted fiscal year 2021 and 2022 and getting really close to submitting 2023. She talks about collaboration with the audit team, meeting with them every Thursday to answer their questions and their emails within 24 hours. Ms. Ness explains that the first year they are pining on with their work will likely be the longest road, just as it was for us to pull together the financial statements for the first year. For 2020 we also started with 2018, 2019 and then 2020. While its one year its actually 3. My hypothesis would be it will take them a little bit of time to get through their methodology for this first go round for 2020 and then the following year should fall much more quickly. As a reminder, we are not attempting to clear out any of the deficiencies or material weaknesses until the start of fiscal year 2025. She mentions they have finished up the fixed assets for 2021 and 2022 today and they are moving through 2023 and as far as she can through 2024. There was a systems issue that has since been resolved and are moving along quickly through that. The next page shows all of the progress. She mentions when she checked on this yesterday morning, they were through the end of May on 2022. As they are finishing things, they are uploading them to Robinson Farmer Cox for them to opine on as soon as they clear with 2020. They are taking the same approach as our group is and as the team is sending them over, they are reviewing them. Ms. Ness discusses the creation of the SOPs schedule the last week or prior week on site regarding the SOP trainings well the finalization approval of all SOPs, the SOP trainings, launch of the SOPs, as well as the repository of the SOPs. The schedule was created and has been approved and is now being disseminated to various parties across the city. She mentions having a couple of upcoming key milestones. July 7th will be our final review week with the city. She talks about the team coming in on Saturday and the schedule they will follow for the week. Both SOP and ERP teams will be on site for the majority of that week to make sure everything stabilizes. She mentions they are continuing to correctly develop the suppository framework, and the importance of that so when they transition it over to personnel, they know how to find things and things are triggered when it is time for reviews. They are also creating a policy and procedure standard for that repository so everyone knows how it works. They have created and are refining training templates and updating them. Its really important to have practical training for the staff onsite. Ms. Ness stresses that these are future State SOPs, some of them are not going to be useful until they get the implementations that go live in July. Because they are working in the new control structure, the new process that the new capabilities of the

system will offer. Ms. Ness talks about steps starting July 1, with the pulled cash fund and bank reconciliation manager implementation. The next piece she discusses is the security and work optimization. Ms. Ness speaks to the segregation of duty security and work flow recommendations in detail. There are a couple of add-on modules going through also targeted for July 1 with bid and contract management. This one is going through smoothly no issues. Employee expense reimbursement is running a little behind and she gives some details as to why. She notes there are additional training sessions coming up on the 17th of June and then not until July 18th. The July 18th date is pushing things back a little. We will have everything in the system, assuming we go thru the GSA schedule today, by the end of July. She takes some time to explain GSA per Diem. Hopewell Public Schools were going to implement Munis with no support from outside help. She mentions they had a meeting with them last week to understand what their plan was. Ms. Ness goes through the meeting information with Hopewell public schools. Her recommendation is that you, as city council sit down with Dr. Manker Jay and ourselves to talk about it with Hopewell Public Schools, so you can get your questions answered and then they can determine an appropriate path forward. She mentions their concern is that the city did this themselves many years ago and the advice that comes from vendors may not be the best advice for Hopewell Public Schools. It is always good to have support for organizational change, and to have an independent perspective in their advising. That would be our recommendation for best practices, whether or not it's us or any other vendor. It is something that we advise and you all take into consideration and determine some guidance on how you would like to proceed. Our next steps that we identified is for Dr. Manker to organize a collaborative meeting with the school board, school personnel that are participating and Council, to ensure that it is aligned appropriately with good ERP practices. She mentions the worry is that they are spending a lot of time and money cleaning up the Munis system here and it would be a shame to take a bunch of steps backwards to do the same thing all over again. Let's make sure this time everyone is doing it with the appropriate structure; however, the city determines that to be is how you determine it to be, but we definitely need to open up those lines of communication.

Vice Mayor asked that we add an item to the pending list for the city manager to get back to us with some options, perhaps when we are meeting once during the summertime to have a meeting with a school board on this item before they start their process.

Ms. Ness announces on Tuesday, June 18th, we have our next Wastewater Commission meeting. She mentions they are in a really good place for those reconciliations they have been talking about for the last nine months. She thinks they reached an agreement, with everyone's hard work and on the 18th, they will likely verbally reach the agreement and then document it to have everyone sign off on it so everyone knows going forward, when they pull out that this is how reconciliations are done for every year moving forward. Her hope is that everything will be signed off on the 18th. They have a meeting with their industry partners and they will document a form of agreement per everyone's request and moving forward with everything in writing. They have enclosed several of the issues that they have had open. They only have three that are on hold, and for this week, they have 63 current issues that are being worked. She explains the other open items that council sees, which are down to 19; those are the ones that are owned by the city and they are working through those as well. Ms. Ness talks about the treasury department and leaving the open item there but everything is moving along quite nicely and found nothing odd. They are still waiting on some records from DMV to close that out. The one major open item is the GSA per diem discussion which is on the agenda for today. She mentions she would love a decision on that today so they can code the system correctly for the employee expense reimbursement. She talks about getting close to an Asst. City Manager position, and the role that person will play as a transition resource, understand and recognizing the training, all the standard operating procedures and understand the history of the systems, so they can continue to carry forward the controls that they are putting in place. They do not want to train on standard operating procedures that are not approved. She mentions, come July 8th meeting, you will hear a lot from her about what's finalized and approved and what's still outstanding. She would love for everyone to do their part in approving the next month of the standard operating procedures and/or providing feedback that needs to be changed. This is going to be system implementation, system stabilization, launch of the new standard operating procedures and the start of what we hope will be a clean audited fiscal year.

2. **Play All Day VA** – **Tabitha Martinez, Parks and Rec Director.** Hopewell Recreation and Parks is going to be partnering in the statewide initiative with 40+ agencies. This was brought to us by Virginia recreation and parks Society, which will have a celebration on June 20. The mission is to provide free programs and services to the community from sunrise to sunset. The citizens can get involved in

the community programs, highlighting what recreational parks represents. Ms. Martinez would like to invite city council and the community to celebrate the longest day of the year, the summer solstice on June 20. She directs everyone to the flyer to highlight the activities, touching all age groups.

COMMUNICATIONS FROM CITIZENS

1. **Sharah Fuller**- She is the neighborhood Watch Captain for Ward 5 and that every Ward has a neighborhood watch. There is a chair person, captain or coordinator. She explains they are simply trying to make the neighborhood better. She gives examples of support to the to the community. The Hopewell police dept. partners with them but it is really based off the neighbors and what we do by coming together to do our best. Ms. Fuller talks about putting on family functions, fun days and cleanups. We are doing our best to promote the good in our city. Ms. Fuller gives an example of a long-standing company in the area and talks about an upcoming Ward 5 celebration cookout at the Wesley United Methodist Church. Everyone is welcome to attend. She gives more information about other events going on in the city.

PUBLIC HEARING

Councilor Denton makes a motion to extend the meeting until we finish R2.
Councilor Joyner seconds the motion.

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Abstain)

Motion Passes 5-0

PH1- Hopewell Marina Proposed Slip Fees Charles Bennett, Economic

Development Director. Mr. Bennett mentions his presentation has been updated, based on the feedback he received from the council and some of the citizens that communicated at the time we had the work session during the communication from citizens and also citizens that came by and saw me at the office or the marina. He mentions ultimately, he will request action on the resolution you have in your packet. It is the council resolution to establish the usage and storage fees for the city of Hopewell marina. He explains the changes and the reason for the changes to the financial model. There will be a total of 30 long-term slips and 14 transient slips. The boat ramps, the kayak launch and the parking all stays the same. Mr. Bennett talks about the update of information from the James City County Public Marina. The information has been very educational and has been following their advice on a lot of the implementation that they are going through. He explains some of the discounts issued by Fishtails. He is proposing for covered or long-term slips to be \$300 a month for city of Hopewell residents and \$350 a month for non-residents. This is a reduction from the first presentation where it was \$40 a month for a non-residents and \$360 a month for residents. The boat ramp fees at \$8 for residents and \$10 for non-residents will stay the same. He proposes \$10 a month for overnight parking for residents and \$15 for non-residents. This does not apply to slip holders. This is for people who come and use the kiosk, the electronic parking meters put in at the ramp. Mr. Bennett speaks to ramp fees which covers boat owners to go use the river and park all day long but if they are there after 9 pm, they will need to pay for overnight parking. The cameras would keep track of who is utilizing that. Hopewell residents would have a unique number they would put in to get their discount. Currently, there are no fees being charged for fish tournaments. Most people don't do any kind of fee for a fishing tournament unless it is more than twenty boats. We feel the boat ramp fees are going to be enough for the collection of revenue. The \$250 special events fee is primarily to make sure they don't have people holding events on public property without a Certificate of Insurance, in case something happens during that event and they also keep track of who is approved to have a tournament at the site that day. He discusses some of the public amenities for slip holders on the marina.

1. David Walker- a resident of Chesterfield count and has been at the marina for about 10 years. He suggests that we think about the residency being connected to his boat. He disagrees with the slip fees he pays as a non-resident but states he pays them in advance. Mr. Walker states he is confused about the fees he pays for use of the marina; is it going to the general fund or to repair the marina. He asks for help for those that are

involved to find a solution for July 1 and then a solution a month or two from now.

2. William Haydt- States he doesn't agree with the two-month security deposit. He's been at the marina for 11 years. He pays all taxes on time. He states he doesn't see where the two-month security deposit has any bearing on us renting a slip and believes the slip rent is pricey for what we have there. The maintenance being done is coming out of our funds and he agrees with that one hundred percent. He knows that something has to be done.

3. Rachel Fenton- Rachel Fenton- resident of Chesterfield and son is in Hopewell. They are new slip holders. You need to consider the current condition of the marina. She gives examples of repairs that need to be done to her boat slip at the marina. She states her concern comes to the funding of this property and the manipulation that comes with the words save the marina. She gives a scenario to council and asks where are the option plan B or plan C.

Councilor Pelham makes a motion to allow her to finish her comments. Vice Mayor Gore seconds the motion.

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	Yes

Motion Passes 6-0

Ms. Fenton asks what would the cost be to increase renovating dock A and then phasing to dock B and C. She lists several arguments that can

be made by the EDA. She offers something for council to consider and compared two marina vacancies, stating the reason for the full capacity of the other marina is because of the condition and the amenities. Once revitalized, the prices might be justified but believes the EDA might be ahead of its' time. She would like to keep her boat slip in Hopewell but may re-consider leaving for 100 percent increase.

4. Randy Wise- He talks of being thankful and thinking positive for a positive direction of the marina, he was disappointed in the March meeting. He states it was discussed we could include the Hopewell Dock Commission in some of the talks and planning but nothing was done and no one included. He expresses that it's a good way to use the people you have elected to be on that commission. The first move is not to raise the rent, you've already lost people which means you've already lost rent, even the increased fees. He talks about the lady from Robert Bob Group mentioning pulled cash and that he has paid approx. \$10-\$12,000 in personal property taxes. If I move my boat, that goes away. He states his dock fees about \$100,000 over the last 10 years. In all the docks, a couple of \$100,000; where's that money gone? He comments that like she said, it gets used somewhere else, not used at the marina. He explains marina upkeep is done by many boaters and details the work that's done. He highlights some amenities not accessible by boaters. Mr. Wise talks about the bigger boats that have already left the marina and possible personal property tax loss. How are you going to increase rent when you have vacancies across the board? We have all agreed we're will to pay more but \$100, \$150, \$200 is too much. If I go from \$143 to \$300 that's more than double and I'm getting zero extra for that. States there's slips that are going to be empty soon and there's plenty of room out there for more people to come at a small increase of \$25, \$50, or \$75 but \$150, \$200 it's just too much at one time.
5. Brian Caldington- not a Hopewell resident. States reasons why he should not be charged \$50 extra because he is not a Hopewell resident. His boat pays taxes in Hopewell which means his boat is a resident of Hopewell. Why do I get discriminated and have to pay an extra \$50, is very opposed to that. States this has been promised for years, the dock is in horrible shape and now you finally going to fix it up but you're going to double our rent? And also, a lease when all of us have been here for years you want us to sign a big long lease. I hope we can all work together and get something going

forward. He comments this is the only marina he knows that does not have wi-fi. Continues to comments you don't have a lot to offer here but I do like it here, I like the people and I like their location so hopefully you all can work the ground smoothly through.

6. Paul Reynolds- He recalls a work session 2 weeks ago some voiced an interest in funding the boat docks at the marina, using taxpayer funds. He argues there's no good reason to do that. He distinguishes between a business enterprise and essential services in the city. Mr. Reynolds breaks down the difference between the two by example and discusses citizen matters that should be taking the highest priority in Hopewell. He gives one example of a citizen who testifies to major damage to her home, and has had no help in addressing the issue in 32 years. He points out that this is an essential service. Mr. Reynolds asked that we consider that the docks are a business, not an essential service to all of the citizens of Hopewell. He asks, as you think about these fees and possibly throwing city money to these failing docks, it's going cost a bundle, a lot of money. If we're going to throw good money after bad, we're denying the people, that's been asking for stormwater management for 32 years. What are your priorities? This is what's really important.
7. Darlene Thompson- This seems to happen every year, that Mr. Charles is able to come before Council and ask for money after the budget. She states this is why we are where we are today. She states this is a budget period, from January to June 30th. If these things are needed, they should be addressed during the budget period. We need to come up with the way to raise money because I've been hearing about this marina for over six years and it keeps coming up every year. They got \$10 million and it wasn't considered. We need to put better plans in action. She talks about Heather with the Robert Bob group, having a good plan to move the city forward. She talks about the citizens getting hit big-time with increases like real estate taxes and trash. We are the ones that have to pay the price for it so Council needs to get things in order. She gives examples of funding that Mr. Bennett has received, that was done outside of the budget. Some of the people haven't started paying their real estate taxes and people have the potential to lose their homes if they don't pay the real estate

taxes, something that was put on peoples backs within the last 28 days. She talks about the fear of standing before council, but you all did this to the city by casting the ultimate vote to spend the money. Ms. Thompson gave an example of a way Heather talked about tracking spending. She talks about finding a better way to fund the marina. She calls out names and salaries for some of the city employees and reminds everyone that the citizens do not have it.

R1- Finance Committee Scheduled Meetings Discussion – Dr. Manker, City Manager. Dr. maker presents four options for the finance committee meeting that will be established in July. This is to provide staff some direction so they can prepare for the July meeting. The first option is: have the finance committee meeting on the second meeting of each month and eliminate the work session. The second option is to have the meeting each month, eliminating the close session discussion. The third option would be the second meeting of each month. This option shortens the finance committee meeting by 30 minutes. Option four is to create a separate meeting so now they are committing to three meetings a month. This finance committee meeting will be the only meeting that's being held on that third meeting in a month. She yields the floor to Mayor Parton for discussion.

Councilor Joyner makes a motion to approve option four for the third Tuesday. Councilor Pelham seconds the motion.

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	Yes
Councilor Joyner-	Yes
Councilor Harris-	Yes

Motion Passes 7-0

R2- GSA- Dr. Manker, City Manager. Dr. maker comes before Council to ask for recommendation to adopt the GSA schedule for per diem. There may be an amendment to add the hotel rates, so we can do that all at once for the implementation for the employee expense module.

Counselor Denton makes motion to approve the GSA schedule for the implementation to the Munis employee expense module as presented and to include the lodging aspect. Councilor Harris seconds the motion.

ROLL CALL

Mayor Partin-	Yes
Vice Mayor Gore-	Yes
Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	Yes

Motion Passes 6-0

ADJOURNMENT:

Mayor Partin adjourns the meeting

Respectfully Submitted,

Johnny Partin, Mayor

Brittani Williams, City Clerk

MINUTES OF THE JUNE 20, 2024 CITY COUNCIL SPECIAL MEETING

A SPECIAL meeting of the Hopewell City Council was held on Tuesday June 20, 2024 at 6:30 p.m.

PRESENT: John B. Partin, Mayor
Jasmine Gore, Vice Mayor (Absent)
Janice Denton, Councilor
Brenda Pelham, Councilor
Dominic Holloway, Councilor (Absent)
Rita Joyner, Councilor
Michael Harris, Councilor

CLOSED MEETING:

Councilor Pelham makes a motion to go into closed meeting pursuant to Va. Code Section §2.2-371 1 (A)(1) to discuss and consider personnel matters, including board and commission appointments; the assignment and performance of specific appointee and employees of City Council, and to the extent such discussion will be aided thereby, Councilor Denton seconds the motion.

ROLLCALL-	Vice Mayor Gore-	(Absent)
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	(Absent)
	Councilor Joyner-	Yes
	Councilor Harris-	Yes
	Mayor Partin-	Yes

Motion Passes 5-0

Reconvene Open Meeting

Councilor Joyner makes a motion to reconvene open meeting. Councilor Pelham seconds the motion.

ROLLCALL-	Vice Mayor Gore-	(Absent)
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	(Absent)
	Councilor Joyner-	Yes
	Councilor Harris-	Yes
	Mayor Partin-	Yes

Motion Passes 5-0

CERTIFICATION:

CERTIFICATION PURSUANT TO VIRGINIA CODE §2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

ROLLCALL-	Vice Mayor Gore-	(Absent)
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	(Absent)
	Councilor Joyner-	Yes
	Councilor Harris-	Yes
	Mayor Partin-	Yes

Motion Passes 5-0

Councilor Denton makes a motion to authorize the city manager to hire the city CFO and Finance Director and to sign the letter offer and agreement. Councilor Pelham seconds the motion.

ROLLCALL-	Vice Mayor Gore-	(Absent)
	Councilor Denton-	Yes
	Councilor Pelham-	Yes
	Councilor Holloway-	(Absent)
	Councilor Joyner-	Yes
	Councilor Harris-	Yes
	Mayor Partin-	Yes

Motion Passes 5-0

ADJOURNMENT:

Councilor Holloway motions to adjourn,

Yes- 7

No- 0

Respectfully Submitted,

Johnny Partin, Mayor

Brittani Williams, City Clerk

MINUTES OF THE JUNE 25, 2024 CITY COUNCIL REGULAR MEETING

A REGULAR meeting of the Hopewell City Council was held on Tuesday June 25, 2024 at 6:00 p.m.

PRESENT:

John B. Partin, Mayor
Jasmine Gore, Vice Mayor (Virtual)
Rita Joyner, Councilor
Michael Harris, Councilor (Absent)
Janice Denton, Councilor
Brenda Pelham, Councilor
Dominic Holloway, Councilor (Absent)

CLOSED MEETING:

Councilor Joyner makes a motion to go into closed meeting pursuant to Va. Code Section § 2.2-371 1 (A)(I) to discuss and consider personnel matters, including board and commission appointments; the assignment and performance of specific appointee and employees of City Council, and to the extent such discussion will be aided thereby, Councilor Pelham seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)

Motion Passes 4-0

Reconvene Open Meeting

Councilor Denton makes a motion to reconvene open meeting. Councilor Pelham seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)

Motion Passes 4-0

CERTIFICATION:

CERTIFICATION PURSUANT TO VIRGINIA CODE §2.2-3712 (D): Were only public business matters (1) lawfully exempted from open-meeting requirements and (2) identified in the closed-meeting motion discussed in closed meeting?

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)

Motion Passes 4-0

WORK SESSION

WS-1-Prince George County Waste Water Allocation Request- Allen

Harrison, Water Renewal Director. Dr. Manker introduces the new Director for Water Renewal. Mr. Harrison brings everyone up to speed on a request from Prince George County. He discusses that Prince George County made a request to the city to get an additional 5 million gallons so they will be at capacity. He notes the request was taken to the commission last week and they were in favor of looking at it and referred it to their technical advisory committee and they will probably have an answer towards the end of the summer. They will know a little more once they meet with them. He goes into some details and steps of what the next steps are for the request from Prince George County. He adds there is support of it from the Commission and staff will be working with them to look at it. Mr. Allen would like to bring it back around late summer early fall, once the details are worked out. Dr. Manker takes a moment after Mr. Harrison's Work Session briefing to introduce Mr. Allen Harrison to everyone watching and the City Council.

REGULAR MEETING

Mayor Partin calls the Regular Meeting to order

PRESENT: John B. Partin, Mayor
Jasmine Gore, Vice Mayor (Virtual)
Rita Joyner, Councilor
Michael Harris, Councilor (Absent)
Janice Denton, Councilor
Brenda Pelham, Councilor
Dominic Holloway, Councilor (Absent)

Prayer by Pastor Harville, followed by the Pledge of Allegiance led by Councilor Denton.

Councilor Denton makes a motion to adopt the Regular meeting agenda.
Councilor Pelham seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)

Motion Passes 4-0

Councilor Denton makes a motion to adopt the Consent Agenda. Councilor Pelham seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)

Motion Passes 4-0

COMMUNICATIONS FROM CITIZENS

1. **Sharah Fuller**- Mrs. Fuller introduces herself to the council and that she is the neighborhood watch Captain for Ward 5. She talks about their next neighborhood watch meeting being held on July 1st at 6:00 at Wesley United Methodist. She comments all are welcome to attend, whether or not you live in Ward 5. The Ward 3 cookout has been postponed until August. Next cook out will be out Powers Baptist church on the 10th from 5pm to 7pm. Everyone is welcome to come. The cooling shelter is now open for different needs, Monday through Friday from 10 AM to 7 PM and Saturday and Sunday from 10 AM to 7PM at the formal warming shelter.

PUBLIC HEARINGS

Ph1 - Conditional Use Permit to construct at 512 Hopewell St – Chris Ward, Director of Development – Mr. Ward begins his presentation explaining this is to construct a 7-foot fence in a front yard in relation to parcel #080-1070 also identified at 512 Hopewell St. He gives a description of the property and where it is located based on a map he provided to council. He states the zoning ordinance permits fences up to 4ft tall, fences taller than that can only go up to 7ft. He explains the type of fence it would be and where it would be placed in the yard dimensions wise. He goes over what each picture he provided is showing to council, giving explanation to each photo. The planning commission agreed and made no changes and gave their approval at the May 2nd meeting.

Councilor Pelham asks has any other 7ft fences been approved, Mr. Ward stated none that he knows of. She mentions she cannot support this request tonight.

Councilor Joyner mentions the house is beautiful and the triangle area is where they are asking for the fence for privacy purposes. She is glad someone is investing in this and she will support it.

Mayor Partin mentions he can justify it and it backs up to city park which is a top 3 visited location so he understands the need for privacy.

Councilor Pelham makes a motion to allow Vice Mayor Gore to participate remotely, Councilor Joyner seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Abstain)

Motion Passes 4-0

Vice Mayor Gore asks is the fence going to be in the front yard with cemetery in the back yard? Mr. Ward mentions that is correct and gives detail answer to her question.

Mayor Partin opens the public hearing.

1. Sh'Va BenYacov comes up to the podium and states "I suffer PTSD and I may have misunderstood what I was signing up for but if anyone has any questions about my property I am here". He then went back to have a seat.

Councilor Joyner make a motion to approve the CUP as presented, Councilor Denton. Councilor Pelham states she would like to change her mind and support the motion seeing that the applicant is a veteran and needs his privacy.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Yes)

Motion Passes 5-0

PH2 – School Board Vacancies Update – Dr. Manker mentions this public hearing is to advertise there will be openings to this board this time next year, and to reach out to the city clerk to inquire about the vacancies and to fill out TBR so they can be interviewed by council to potentially be a part of the school board.

REGULAR BUSINESS

R1 - Modification to Development Standards for 5105 Oaklawn Blvd – **Chris Ward, Director of Development** – Mr. Ward opens up giving a brief description of where this address is located and the mentions the proposed second sign will conform to the city's free standing sign specification. He mentions the first sign is going to reface an existing pole sign that is already there. For modifications they look at several considerations and it should not be granted if one of them is met. He then goes over each of those considerations. He mentions planning commission recommends approval, on June 13 they had a 5 to 0 approval. He opens the floor for questions.

Councilor Pelham asked does she think this will cause traffic, Mr. Ward states in his experience cook out can generate traffic issues, the good news this location has a second entrance. He mentions they have informed the police department and they are aware of possible traffic issues.

R2 – Park and Recreation Professional Day – Tabitha Martinez – Ms. Martinez gives a detailed description of what her and her team has accomplished and what they continue to do on a daily basis. She thanks Council for their continued support and she asks for council to proclaim July 19th as Park and Recreation Professional Day.

Councilor Joyner makes a motion to approve July 19th as Parks and Recreation Professional Day, Councilor Pelham seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Yes)

Motion Passes 5-0

R3 – Sturgeon Sculpture – Tabitha Martinez – Ms. Martinez mentions this sculpture was approved in 2023 for installment, and she mentions when it was installed it was requested to have it there for a year, it is now requested to have it there indefinitely by the grantor of the sturgeon arts. She is here tonight requesting consideration regarding that request from Heather Lyne at the Hopewell Downtown Partnership.

Councilor Joyner mentions it is technically culture works that is requesting that it stays. She wanted to ensure they received credit for the request.

Councilor Joyner makes a motion to allow the sturgeon sculpture to remain indefinitely down at city part, Councilor Pelham seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(Yes)

Motion Passes 5-0

R4- Resolution of Support for Smart Scale – Michael Campbell – Mr. Campbell begins his presentation by letting council know he is requesting a

resolution of support for SmartScale. He speaks about the 4 projects the city has submitted, which is the Courthouse Rd Phase 2, Winston Churchill Corrido Phase 1, Winston Churchill Phase 2, and the East Randolph Rd safety improvement project. These are for SmartScale which is 100 % reimbursement with no financial burden from the city. The second part of his resolution is the Tri Cities Metropolitan planning organization was kind enough to at the city staff request to put in an application for the Winston Churchill Corridor Improvement the entire project, and the other application they are asking for support on is the I85, I95 interchange improvements. The recommendation is for City Council to please approve the resolution of support for all 6 projects. The cycle will close on August 1, so if it is not done today they will not be able to get done at all and it will disqualify the applications.

Councilor Pelham makes a motion to approve the entire SmartScale application and the Tri-City MPO recommendations per the resolution and this be formally added to the CIP plan, Councilor Denton seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	Yes

Motion Passes 5-0

R5 – Cigarette Tax Ordinance – Dr. Manker – Dr. Manker mentions council approved the tax resolution on April 16th and approved the budget resolution at the second public hearing on May 28th. Once they created the tax ordinance they now have to adopt the tax ordinance. She mentions this is a formality. She mentions the ordinance is to take effect on January 1, 2025. Staff recommends that council approve the cigarette tax ordinance if it coincides with the tax rate that was approved on April 16 and the FY 2025 budget resolution.

Councilor Pelham asks if this is not starting in January did they take into consideration when they did the budget revenues for July to December. Dr. Manker mentions yes it takes about 6 to 8 months so the ordinance needs to be in place before the commissioner of revenue can proceed down that road to tax the store. Councilor Pelham asks was it built into the budget. Dr. Manker mentions revenue will not be received until starting in January. Councilor Pelham asks to give her the difference between one year projected vs 6 months' revenue and is it going to impact the budget. Mr. Russ comes online to answer the question in further detail.

Councilor Denton makes a motion to approve the cigarette tax ordinance that coincides with the tax rate that was approved on April 16 and the FY 2025 budget resolution, Councilor Pelham seconds the motion.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	(No)

Motion Passes 4-1

Vice Mayor Gore asks when would the proceeds come in, Russ responded they assumed it would start in January 1, 2025.

R6 – Children Service Act Budget Adjustment – Russel Branson, Interim Finance Director – Mr. Russ begins his presentation giving a description of what CSA is for and how it works. It mentions it has often gone over the budget amount and the revenue from CSA this year was 3.7 million and they have paid that out and are now into 2 months of payments left for May and June. The may amounts are 300,00 and expect the same for June. They are asking for an additional appropriation of \$600,00.00 to make those payments. The budget ordinances have the approved appropriate for each department and 3.7 was approved appropriate, in order to spend more they will need council

approval to raise it higher. He mentions the cost to the city would only be 133,00.00.

Councilor Pelham asked was it 74 or 76 percent, the answer given was 74 percent. For every dollar Hopewell spends, they get reimbursed 74 percent of it. Mrs. Brenda responds to Councilor Pelham in further detail of how the process works. Councilor Pelham asked what do they do with all the money they get back? Dr. Manker states it goes back to the general fund. She asks for the exact amount that will go into general fund once the year is closed out? Mr. Russ stated he will have that number for her.

Vice Mayor Gore asked Mr. Russ for the overage for this year does next year's budget account for the same amount in case it happens again. Russ mentions they will likely have to request it again if it happens again next year. Vice Mayor Gore states this is the first time she is hearing about this, and what is different from this year and prior years. She asked on average based on prior years has the overaged occurred every year and they just did not know about it. Russ said last year it was over about the same, prior years it's harder to tell. He mentions his staff says it has been consistently overage. Vice Mayor Asked how has the overages been corrected in the budget. Russ mentions he was told they went after it was spent to get the adjustment and he is not sure if that is accurate. She mentions the biggest concern is it being three departments with overages, are there checks in the system to prevent overspending? Mr. Russ answers saying there are limits and systems but they can be overwritten. The system has alerts to alert when there are not enough funds, which requires them to come to council. She then asks is there a way to stop it in MUNIS to prevent the payments besides the alerts. Once Russ is gone and people go back to old habits we will be back in this position. Russ mentions it is in there and would need to be overwritten, but he believes the person coming in will hold these lines.

Councilor Denton makes a motion to approve an increase in budget appropriation for FY 24 for the children's service act fund 015 from 3,700,00.00 to 4,300,00.00, councilor Joyner seconds the motion.

Councilor Pelham asked city attorney to put in the motion for the motion to show the reimbursement the city will receive. 74 percent of the 600,00 will be reimbursed by the state of VA. Councilor Denton and Councilor Joyner accepts the friendly amendment.

ROLL CALL

Councilor Denton-	Yes
Councilor Pelham-	Yes
Councilor Holloway-	(Absent)
Councilor Joyner-	Yes
Councilor Harris-	(Absent)
Mayor Partin-	Yes
Vice Mayor Gore-	No

Motion Passes 4-1

Councilor Joyner makes a motion to Adjourn.

ADJOURN

Respectfully Submitted,

John Partin, Mayor

Brittani Williams, City Clerk

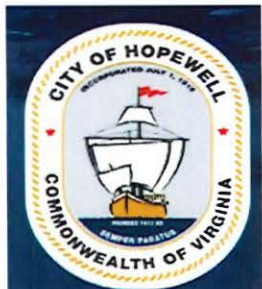
ADJOURNMENT:

Mayor Partin adjourns the meeting

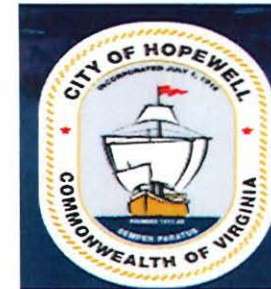
Brittani Williams, City Clerk

Johnny Partin, Mayor

C-2



CITY OF HOPEWELL
COUNCILOR PENDING LIST



<u>REQUEST</u>	<u>REQUESTOR</u>	<u>DATE</u>	<u>NOTES</u>
Delinquent Funds	Jasmine Gore	12/14/2023	City Manager
Housing Commission	Jasmine Gore	12/14/2023	CCR - Hold
Poet Lareate	Brenda Pelham & Jasmine Gore	12/14/2023	CCR (Defer to Pelham)
Beacon Theater LLC	Jasmine Gore	12/14/2023	City Manager
Crisis Support	Jasmine Gore	12/14/2023	City Manager
City Human Resource Policy	Brenda Pelham	12/14/2023	HOLD
Business License Policy	Jasmine Gore	12/14/2023	HOLD
City Credit Card Policy	Brenda Pelham	12/14/2023	CCR
RFP For Financial Services	Councilor Joyner	12/14/2023	HOLD
Meeting with School Board	Vice Mayor Gore	6/11/2024	Pending

C-3

Hopewell Police Department Crime Summary

July 15, 2024



HOPEWELL POLICE DEPARTMENT
 CRIME SUMMARY
 Reporting Date: July 15, 2024

Year-to-Date Comparison		Thru July 14th				
	2023	2024	# Change	% Change	5 Year Average	% Change to Average
MURDER	5	1	-4	-80%	4	-72%
FORCIBLE RAPE	2	3	1	50%	3	-6%
ROBBERY	5	2	-3	-60%	11	-82%
AGGRAVATED ASSAULT	37	36	-1	-3%	32	13%
Violent Crime Total	49	42	-7	-14%	50	-15%
ARSON	4	2	-2	-50%	1	67%
BURGLARY	18	18	0	0%	32	-44%
LARCENY	140	164	24	17%	187	-12%
MOTOR VEHICLE THEFT	27	70	43	159%	33	110%
Property Crime Total	189	254	65	34%	254	0%
Total Major Crime	238	296	58	24%	304	-3%

Murder, Rape, Assault by # of Victims, All others by # of Incidents

5 Year Average to 7/31

HOPEWELL POLICE DEPARTMENT
Reporting Date: July 15, 2024

Suspected Opioid Overdoses 7/31							
	2019	2020	2021	2022	2023	2024	Grand Total
Fatal	8	7	12	5	13	6	51
Non-fatal	29	52	55	43	52	34	265
Grand Total	37	59	67	48	65	40	316

Subject to change as
forensic results are returned

HOPEWELL POLICE DEPARTMENT
Reporting Date: July 15, 2024

Verified Shots Fired Jan 1 2023-July 14 2023 Vs Jan 1 2024-July 14 2024		
2023	2024	2023 Yearly Total-60
36	27	

Neighborhood Watch Meetings

City Point – 1st Wednesday of every month @ 1800 Hrs. @ PD Multipurpose Room.

Farmingdale – 1st Monday of every month @ 1830 Hrs. @ Wesley United Methodist Church.

Cobblestone – 3rd Wednesday every other month @ 1300 Hrs. @ Cobblestone Rec. Center.

Kippax Dr – 3rd Thursday of every month at Mr. Brown residence @ 3807 Gloucester Dr.

Autumn Woods – Will be starting up again in May 2024 and the location is to be determined.

Ward 3 – Usually every quarter, nothing has been planned yet.

Arlington Heights – Usually meet last Tuesday of the month @ 1305 Arlington Rd. Friendship Baptist Church.

Hiring-Recruitment July 2024

- 11 - Sworn Vacancies, 1 - Emergency Communications Vacancy, 1 – Animal Custodian Vacancy
- LE Panel Interviews are scheduled for July 16, 2024 & testing is scheduled for July 18, 2024.
- 1 – Animal Control Custodian Background Investigation remain.
- 4 Recruits hired and started the Academy on 07/08/24
- 1 Certified Officer was hired and started working on 06/26/24

Recruitment Banner

HOPEWELL POLICE DEPARTMENT

NOW HIRING

- **POLICE OFFICERS**
CERTIFIED AND NON-CERTIFIED
- **EMERGENCY COMMUNICATIONS OFFICERS**



**HIRING
BONUS
AVAILABLE**

APPLY TODAY



(804) 541-0055

WWW.HOPEWELLVA.GOV/224/JOIN-OUR-TEAM

Community Policing Officers by Ward

- Corry Young Ward -1- cyoung@hopewellva.gov
- Ryan Hayberg Ward-2 rhayberg@hopewellva.gov
- Michael Redavid Ward-3&-6 mredavid@hopewellva.gov
- Thomas Jones Ward-4 &7 tjones@hopewellva.gov
- Jonathon Bailey Ward-5 jbailey@hopewellva.gov



Downtown Community Engagement Thursdays & Fridays Evenings

- Foot Patrols were completed.
- Business Checks were completed.
- Directed Patrols were completed.
- Citizens contact/Business Owner contacts were made.



Community Engagement Scheduled Activities July 2024

- On July 13, 2024 participated by cooking hotdogs with Recreation and Parks on Community Appreciation Day.
- On 07-23-24 a Special Olympics meeting is scheduled.
- On July 27 2024, at WAWA the “Cover the Cruiser” for Special Olympics will be held.

C-4

DATE: July 16, 2024
TO: The Honorable City Council
FROM: Yaosca Smith, Director of Human Resources
SUBJECT: Personnel Change Report – June 2024

APPOINTMENTS:

NAME	DEPARTMENT	POSITION	DATE
CHAFFE, THOMAS	COMMONWEALTH ATTORNEY	ASST COMM ATTY I	06/10/2024
HARRISON, LOWELL	HOPEWELL WATER RENEWAL	DIRECTOR WATER RENEWAL	06/12/2024
COLLINS, BERTIS	RECREATION	PT VAN DRIVER	06/12/2024
RICKS, KEISHA	RECREATION	PT RESP LEADER ASST	06/12/2024
BOLLING, KAYDEN	RECREATION	PT LIFEGUARD	06/12/2024
EDMONDS, CHRISTOPHER	PUBLIC WORKS	PW MAINT SPEC	06/12/2024
PORTER, JAMES	DEVELOPMENT/NEIGHBORHOOD SVS	PT INTERN - PAID	06/20/2024
FOSTER, JORDAN	POLICE	POLICE OFFICER NON CAR DEV	06/26/2024
GASTON, JAMES	CITY MANAGER	ASST CITY MGR	06/26/2024
CREAMER, MICHAEL	POLICE	POLICE OFFICER NON CAR DEV	06/26/2024
FLOWERS, CHAUNTEVIA	SOCIAL SERVICES	FAM SERV SUP	06/26/2024
HOLLAND, GINGER	CITY MANAGER	DIRECTOR OF COMM AND GOV RELAT	06/26/2024
TORRES, REINALDO	POLICE	POLICE OFFICER NON CAR DEV	06/26/2024
IKENBERRY, JACOB	POLICE	POLICE OFFICER NON CAR DEV	06/26/2024
MCCLAIN, JAHMAN	POLICE	POLICE OFFICER NON CAR DEV	06/26/2024
COURTNEY, KAREN	TREASURER	DEPUTY TREAS I	06/27/2024

SUSPENSIONS: 0 (Other information excluded under Va. Code § 2.2-3705.1(1) as Personnel information concerning identifiable individuals)

REMOVALS:

NAME	DEPARTMENT	POSITION	DATE
HICKMAN, KENNETH	FIRE	FIREFIGHTER II/MEDIC	06/13/2024
CLEMENS, KATHLEEN	HOPEWELL WATER RENEWAL	LAB TECH II	06/25/2024

BRYANT, JOSEPH	RECREATION	PT GYM ATTEND	06/18/2024
ROBINETTE, REBECCA	SOCIAL SERVICES	BEN PROG SPC II	06/06/2024
POWELL, JUSTIN	SOCIAL SERVICES	BEN PROG SPC II	06/10/2024

CC: Concetta Manker, City Manager
Jay Rezin, IT Director
Arlethia Dearing, Customer Service Mgr.
Kim Hunter, Payroll
Russell Branson, Finance Director

INFORMATION/PRESENTATION



SAFE   

  STREETS

FOR ALL 

HOPEWELL • VIRGINIA



Safe Streets for All (SS4A)



- City was awarded a federal grant to create a Safe Streets for All Safety Action Plan
- A City Staff Leadership Team is working with our on-call consultant Wallace Montgomery to develop the plan
- The Plan will be completed late spring 2025



Safe Streets / Safe System Approach



THE SAFE SYSTEM APPROACH VS. TRADITIONAL ROAD SAFETY PRACTICES

Traditional

Prevent crashes



Safe System

Prevent deaths and serious injuries

Improve human behavior



Design for human mistakes/limitations

Control speeding



Reduce system kinetic energy

Individuals are responsible



Share responsibility

React based on crash history



Proactively identify and address risks

Whereas traditional road safety strives to modify human behavior and prevent all crashes, the Safe System approach also refocuses transportation system design and operation on anticipating human mistakes and lessening impact forces to reduce crash severity and save lives.



SAFE SYSTEM PRINCIPLES



Death/Serious Injury is Unacceptable

While no crashes are desirable, the Safe System approach prioritizes crashes that result in death and serious injuries, since no one should experience either when using the transportation system.



Humans Make Mistakes

People will inevitably make mistakes that can lead to crashes, but the transportation system can be designed and operated to accommodate human mistakes and injury tolerances and avoid death and serious injuries.



Humans Are Vulnerable

People have limits for tolerating crash forces before death and serious injury occurs; therefore, it is critical to design and operate a transportation system that is human-centric and accommodates human vulnerabilities.



Responsibility is Shared

All stakeholders (transportation system users and managers, vehicle manufacturers, etc.) must ensure that crashes don't lead to fatal or serious injuries.



Safety is Proactive

Proactive tools should be used to identify and mitigate latent risks in the transportation system, rather than waiting for crashes to occur and reacting afterwards.



Redundancy is Crucial

Reducing risks requires that all parts of the transportation system are strengthened, so that if one part fails, the other parts still protect people.

Study Process

Align with Comprehensive Plan Goals

Define Safety Goal & Guiding Principles

Apply the SS4A Approach

Evaluate Crash Data

Engage the Residents

Create an Equitable Action Plan

The Goal:

Plan and advance an effective transportation system—serving pedestrians, bicyclists, and motorists alike—that is compatible with the Future Land Use Plan and the Comprehensive Plan’s goals for economic prosperity as well as the safety, livability, and value of our community.

Establish and maintain safe, attractive and efficient urban infrastructure—sidewalks, street lighting, public water and sewer, storm drainage, environmental improvements— that better serve the physical and environmental demands of our population, workers, and enterprise base.



PUBLIC OUTREACH, PROBLEMS & SOLUTIONS

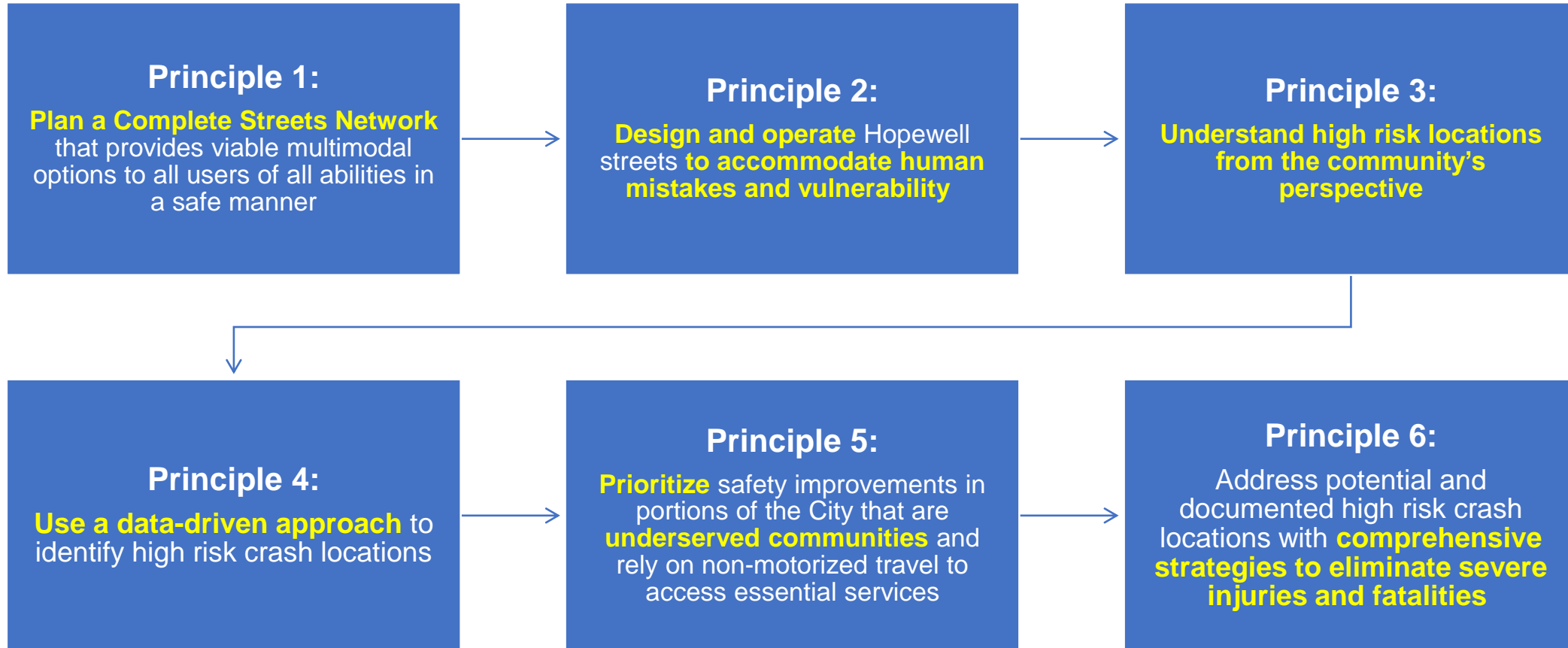
Public Comment	Problem	Proposed Solution
Difficult to See Oncoming Traffic	Poor Sight Distance at Crosswalks	Pedestrian Bulb-Outs
Lack of Clearly Marked Bicycle Space	No Bicycle Accomodations	6' Wide Cycle Track
Unsafe to Enter/ Leave Parked Car	No Defined Edge of Travel Lane	Clearly defined parking spaces and improved accessible spaces

INJURY AND CRASH DATA

City of Harrisburg	2013	2014	2015	2016	2017
Total Fatalities (Pedestrian, Bicyclist, and Motorcyclist)	3	4	6	4	6
Total Severe Injuries (Pedestrian, Bicyclist, and Motorcyclist)	9	8	11	7	11
Pedestrian Fatalities	1	0	2	3	2
Pedestrian Severe Injuries	7	3	7	6	6



Goal: Foster a Safe and Maintainable Transportation Network that Minimizes Severe Injuries and Fatalities



Public Engagement



• Outreach Schedule

Pop-Up Events

July 11 and July 18
Farmer's Market

Sept 7
River and Roads Festival

Community Champion Meetings

July 2
HPGCC Offices

Oct 15 or 16
Hopewell Library

In-Person Public Meetings

Sept 18 or 25
Hopewell Community Center

Oct 22 or 23
Hopewell High or Harry E. James Elementary

Distribute Flyers: Community Center, Library, HPG Chamber Neighborhood Watch Meetings – Ward 3, Ward 5 (Aug 5, Sept 2)

Police Get Out and Talk – 5:00 – 7:00pm July 10 Powers (Ward 3)/24 & 31 First Baptist (Ward 1)



Public Engagement



• Study Website

The main banner features the 'SAFE STREETS FOR ALL HOPEWELL • VIRGINIA' logo on the left. To the right, the text reads 'BUILDING SAFER ROADS, STRENGTHENING COMMUNITIES.' Below this, a paragraph states: 'The City of Hopewell is actively shaping a comprehensive safety action plan focused on reducing fatalities and severe injuries resulting from vehicle crashes involving pedestrians, bicyclists, transit users, and drivers. Developed through community collaboration, this plan will prioritize roadway and infrastructure improvements to address safety concerns for Hopewell residents, while also paving the way for future safety-focused funding initiatives.' A second paragraph follows: 'Central to this action plan is a commitment to prioritizing the needs of those most affected by traffic-related incidents, particularly pedestrians, bicyclists, and individuals within historically underserved communities. This approach aims to enhance safety for all road users.' The City of Hopewell seal is on the right. At the bottom, there is a navigation bar with links: 'JOIN THE CONVERSATION', 'TIMELINE', 'STUDY PROCESS', 'GUIDING PRINCIPLES', and 'LEARN MORE'.

This section is titled 'JOIN THE CONVERSATION' in orange. It contains the text: 'Our primary goal is to incorporate and amplify community feedback throughout the planning process, the design and execution of transportation safety projects, and the application process for Safe Streets and Roads for All (SS4A) funding. We aim to formulate a comprehensive strategy to curb roadway fatalities and mitigate serious injuries.' Below this is a 'KEY FOCUS AREAS' section listing: 'Pedestrian Crossing Improvements | Signal Visibility Enhancements | Interchange Improvement | Pavement Repairs, ADA, and Sidewalk Improvement'. There are two buttons: 'TAKE THE SURVEY' and 'VIEW THE WEB MAP'. A paragraph says: 'In order to prioritize the needs of those most impacted by traffic-related incidents within historically underserved communities, we need your input.' Another paragraph says: 'We are calling on our residents to share your input to make Hopewell streets safer for all.' At the bottom, it says 'ATTEND AN EVENT' and 'July 18: Pop-Up Event'.

This section is titled 'LEARN MORE' in red. It includes the text: 'Contact us at info@hopewellsafestroads.com'. There are two buttons: 'LEARN MORE ABOUT SAFE STREETS FOR ALL' and 'LEARN MORE ABOUT SAFE SYSTEM APPROACH'. On the right is a contact form with fields for 'Name *' (split into 'First Name' and 'Last Name'), 'Email *', and 'Your Message *'. A 'SUBMIT' button is at the bottom right.

This section is titled 'STUDY PROCESS' in purple. It lists three items: 'Safety Mission & Principles' (Strive to eliminate severe injuries and fatalities from traffic related incidents, highlighting the needs of those most affected such as pedestrians, bicyclists, and individuals within equity emphasis areas.), 'SS4A Approach' (Follow the Safe Streets for All (SS4A) principles that proactively prioritize safety, accommodate human mistakes and vulnerabilities, and incorporate street network redundancies that ensure the safety of all roadway users.), and 'Safety Evaluation' (Execute a data-driven analysis that identifies high-risk crash locations to reduce the risk of severe injury and fatalities.). Below these are 'Public Engagement' (Actively engage community members to listen and understand perceived safety concerns and the personal impacts of traffic-related incidents in Hopewell.) and 'Equitable Action Plan' (Complete an action plan including comprehensive strategies to eliminate severe injuries and fatalities Apply an "equity lens" to prioritize proposed safety improvements in equity emphasis areas where residents rely on non-motorized travel to access essential services.).



Public Engagement



1. Take the Public Survey


Hopewell Safe Streets for All Public Survey

Welcome to the Hopewell Safe Streets for All Public Survey.

What is Safe Streets for All?
As part of Hopewell's commitment to making its streets safe for all roadway users, the city received a national Safe Streets for All (SS4A) grant to develop a comprehensive safety action plan aimed at eliminating fatalities and severe injuries from vehicular crashes. At the heart of this plan is the commitment to prioritize the needs of those most impacted by traffic-related incidents, namely pedestrians, bicyclists, transit users, and individuals within historically underserved communities.

Please Provide your Input!
The City of Hopewell would like to ensure that the SS4A Program reflects the communities' lived experiences and priorities. This is why we are calling on our residents to share your input to make Hopewell streets safer for all. We look forward to hearing from you!

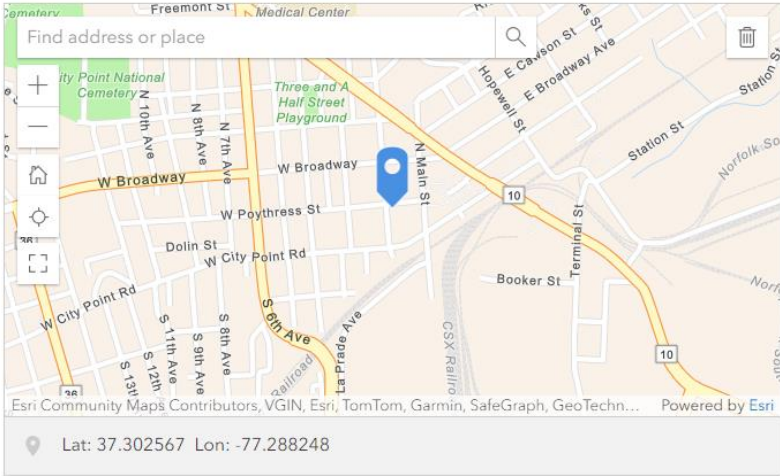
You can learn more about Hopewell's SS4A Program on the project website:
www.HopewellSafeStreets.com



Neighborhood
What neighborhood of Hopewell do you live in?

2. Engage with the Web Map

Mark Your Safety Concern:
From a transportation perspective, where in the City of Hopewell do you feel the least safe?



Tell us more about why this location presents a safety concern for you.



Study Products



Leadership Commitment & Clear Goals / Principles

GIS-based Safety Analysis Tool

Resident Survey: Study Results and Future Resource

GIS-based Equity Analysis Using Demographic Indicators

Public Engagement: Resident Perception of High-Risk Locations, Website, Brand, Materials

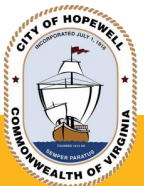
Action Plan: Evaluation Summary, Engineering, Education, Engagement, Executive Policies, Enforcement

Prioritization Process Based on Data-Driven Safety Information and Application of an Equity Lens

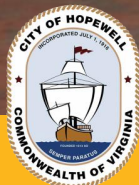
Funding Strategies for Implementation



Study Timeline



Thank You!



COMMUNICATIONS FROM CITIZENS

PUBLIC HEARING

PH-1



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- Civic Engagement
- Culture & Recreation
- Economic Development
- Education
- Housing
- Safe & Healthy Environment
- None (Does not apply)

Order of Business:

- Consent Agenda
- Public Hearing
- Presentation-Boards/Commissions
- Unfinished Business
- Citizen/Councilor Request
- Regular Business
- Reports of Council Committees

Action:

- Approve and File
- Take Appropriate Action
- Receive & File (no motion required)
- Approve Ordinance 1st Reading
- Approve Ordinance 2nd Reading
- Set a Public Hearing
- Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Public Hearing on Modification to Development Standards request to install a second freestanding sign at 5105 Oaklawn Blvd., also identified as Parcel #240-0010.

ISSUE: The Hopewell Zoning Ordinance allows only one freestanding sign per parcel in this zoning district.

RECOMMENDATION: The City Administration recommends approval of the Modification to Development Standards request.

TIMING: City Council action is requested on July 23, 2024 after the public hearing.

BACKGROUND: Please refer to the staff report for more information.

ENCLOSED DOCUMENTS: Staff report, MODS application, presentation

STAFF: Christopher Ward, Director of Development

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call

SUMMARY:

- | | | | | | |
|--------------------------|--------------------------|-----------------------------------|--------------------------|--------------------------|--|
| Y | N | | Y | N | |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Rita Joyner, Ward #1 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Janice Denton, Ward #5 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Michael Harris, Ward #2 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Brenda Pelham, Ward #6 |
| <input type="checkbox"/> | <input type="checkbox"/> | Mayor John B. Partin, Ward #3 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Dominic Holloway, Sr., Ward #7 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vice Mayor Jasmine Gore, Ward #4 | | | |

SUMMARY:

Y N

- Councilor Rita Joyner, Ward #1
- Councilor Michael Harris, Ward #2
- Mayor John B. Partin, Ward #3
- Vice Mayor Jasmine Gore, Ward #4

Y N

- Councilor Janice Denton, Ward #5
- Councilor Brenda Pelham, Ward #6
- Councilor Dominic Holloway, Sr., Ward #7

City of Hopewell, VA
Permits / Inspec. - 202406161MODS - 2024
025307-0004 debra mc... 05/10/2024 01:34PM
MODIFICATION PERMIT - REVIEW 200.00
Payment Amount: 200.00
Transaction Amount: 200.00
TPDev0111:



The City
of
Hopewell, Virginia

300 N. Main Street · Department of Development · (804) 541-2220 ·
Fax: (804) 541-2318

APPEAL TO HOPEWELL PLANNING COMMISSION
MODIFICATION OF DEVELOPMENT STANDARDS, ARTICLE XVIII OF THE
HOPEWELL ZONING ORDINANCE
(Appeal of Decision)
Fee: \$200

THIS REQUEST IS HEARD BEFORE THE PLANNING COMMISSION AS AN APPEAL TO A DECISION MADE
BY THE DIRECTOR OF DEVELOPMENT OR CITY ENGINEER

APPLICANT: M+M Signs Inc. - Jodi Sims

ADDRESS: 1465 Ladonia Church Rd, Mt. Airy NC 27030

PHONE #: 336-352-4300 FAX #: _____

EMAIL ADDRESS: jodie@mmsigns.com

INTEREST IN PROPERTY: _____ OWNER OR AGENT (Sign company)

Property address: Cook Out - 5105 Oaklawn Blvd., Hopewell, VA 23860

A. HAS ANY PREVIOUS APPLICATION OR APPEAL BEEN FILED IN CONNECTION WITH
THIS PROPERTY? Y _____ N

IF YES, PLEASE EXPLAIN: Sign permit applications for wall signs, canopies and refacing existing ID have been submitted and approved.

B. DATE PROVIDED DENIAL OR NOTIFICATION OF THE NEED FOR A MODIFICATION TO
DEVELOPMENT STANDARDS:

5-8, 2024

C. APPEAL OF DECISION/INTERPRETATION:

STATE BASIS OF APPEAL:

A secondary monument sign was applied for due to the property fronting two streets. We are going to reface the existing sign that is located on Oaklawn Blvd but would like to have an additional monument sign in the rear of the property near the entrance of Plaza Drive. Two neighboring businesses have monument signs on Plaza Drive. An additional monument sign would be very beneficial to our customer.

Attach additional sheets, if necessary

In accordance with Article XVIII, Section G of the Hopewell Zoning Ordinance related to Development Standards such appeal of the decision of the Director of Development or City Engineer must be made within thirty (30) days after the decision is provided of denial and/or need for a modification to the standards. The appeal must be filed with the Department of Development specifying the grounds thereof, and paying the applicable fee. The Director shall transmit the application to Planning Commission for its review and recommendation to the City Council. See Article XVIII, Section G, for complete requirements

AS OWNER OF THIS PROPERTY OR THE AUTHORIZED AGENT THEREFORE, I HEREBY CERTIFY THAT THIS APPLICATION AND ALL ACCOMPANYING DOCUMENTS ARE COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Jodi Sims

APPLICANT SIGNATURE

5-10-24

DATE

Jodi Sims

APPLICANT PRINTED NAME

5-10-24

DATE

OFFICIAL USE ONLY

DATE RECEIVED: 5-10-24

DATE OF FINAL ACTION: _____

ACTION TAKEN:

_____ APPROVED

_____ DENIED

_____ APPROVED WITH THE FOLLOWING CONDITIONS





City of Hopewell, VA
Dept. of Code Enforcement
300 N. Main Street
Hopewell, VA 23860
804-541-2220
Welcome

05/10/2024 01:34PM debra m.
025387-0004 000223100
Payment Effective Date 05/10/2024

PERMITS / INSPECTIONS

MODIFICATION PERMIT - REVIEW	
2024 Item: 20240616 MODS	\$200.00
Payment Id: 353414	

	\$200.00
Subtotal	\$200.00
TP CC Fee	\$6.50
Total	\$206.50
TP DEVELOPMENT OFFLINE	\$206.50

Change due	\$0.00



Thank you for your payment.

City of Hopewell, VA COPY
DUPLICATE RECEIPT



SIGN PERMIT APPLICATION
City of Hopewell
Division of Code Enforcement
 300 N Main St., Hopewell, VA 23860
 (804) 541-2220 Fax (804) 541-2318
 Email: dev.zone@hopewellva.gov

DENIED
 5/17/24 - Kelly

PD 5.2.24

A Sign Permit is required by the City of Hopewell to insure proper zoning & building code requirements. Submission of this application must include **two (2) sets of plans and/or specifications and a site plan must accompany this application.** This office will retain one (1) set of plans. This permit will be void if the work is not commenced within six (6) months from the date of issuance. A separate electrical permit may be required if it is an illuminated sign. This permit application will be processed through the Department of Development and the Division of Code Enforcement.

Project Description: Install new signage at the new Cook Out restaurant

Address of Work: 5105 Oaklawn Blvd. Building Use (check one): Residential Commercial
 (Location) Hopewell, VA 23860 Industrial Other

Owner Information:

Name: Cook Out Daytime Phone: (502) 352-2712 Cell: () -
 Address: 15 Laura Lane Email: _____
 City: Thomasville State: NC Zip: 27360 Contact Person: _____

Contractor Information:

Contractor: M.M. Signs Inc. Email: jodi@mmsigns.com
 Address: 1465 Ladora Church Rd. Contact: Jodi Sims
 City: Mt. Airy State: NC Zip: 27030 Office Phone: (336) 352-4300 Cell: () -

Sign #4 - Monument Sign

Sign Description

Please see attached

Sign Permit - \$50 per sign / \$100 per billboard
 (Plus current State Surcharge)

Estimate Cost (Labor & Materials): \$ 20,000

Type of Sign (circle one): Mounted Projection Free Standing

Size: _____ Thickness: _____ Sign Material: _____

Circle One:

Replacing Sign:	Yes	No
Reface:	<input checked="" type="checkbox"/> Yes	No
Single Sided:	Yes	No
<u>Double Sided:</u>	<input checked="" type="checkbox"/> Yes	No
<u>Illuminated</u>	<input checked="" type="checkbox"/> Yes	No
Corner Lot:	Yes	No
Business Lot:	Yes	No

Provide the Following:

Proposed overall Height: _____
 Distance from Property Line: _____
 Distance from sidewalk: _____
 Distance from curb: _____
 Clearance above sidewalk: _____
 Clearance above ground: _____
 Clearance above parking: _____

It is understood that this is an application for a Sign Permit and that work may not begin until the official permit has been issued.

Signature of Applicant: Jodi Sims

Date: 5/1/24

Application #: 20240571

Official Use Only

Permit # _____ Permit Fees \$ 51.00

Check # _____ Cash CC

Sub/Parcel # 2400010 Lot / Block _____

Zoning B3 Enterprise Zone: YES NO
 (Circle one)

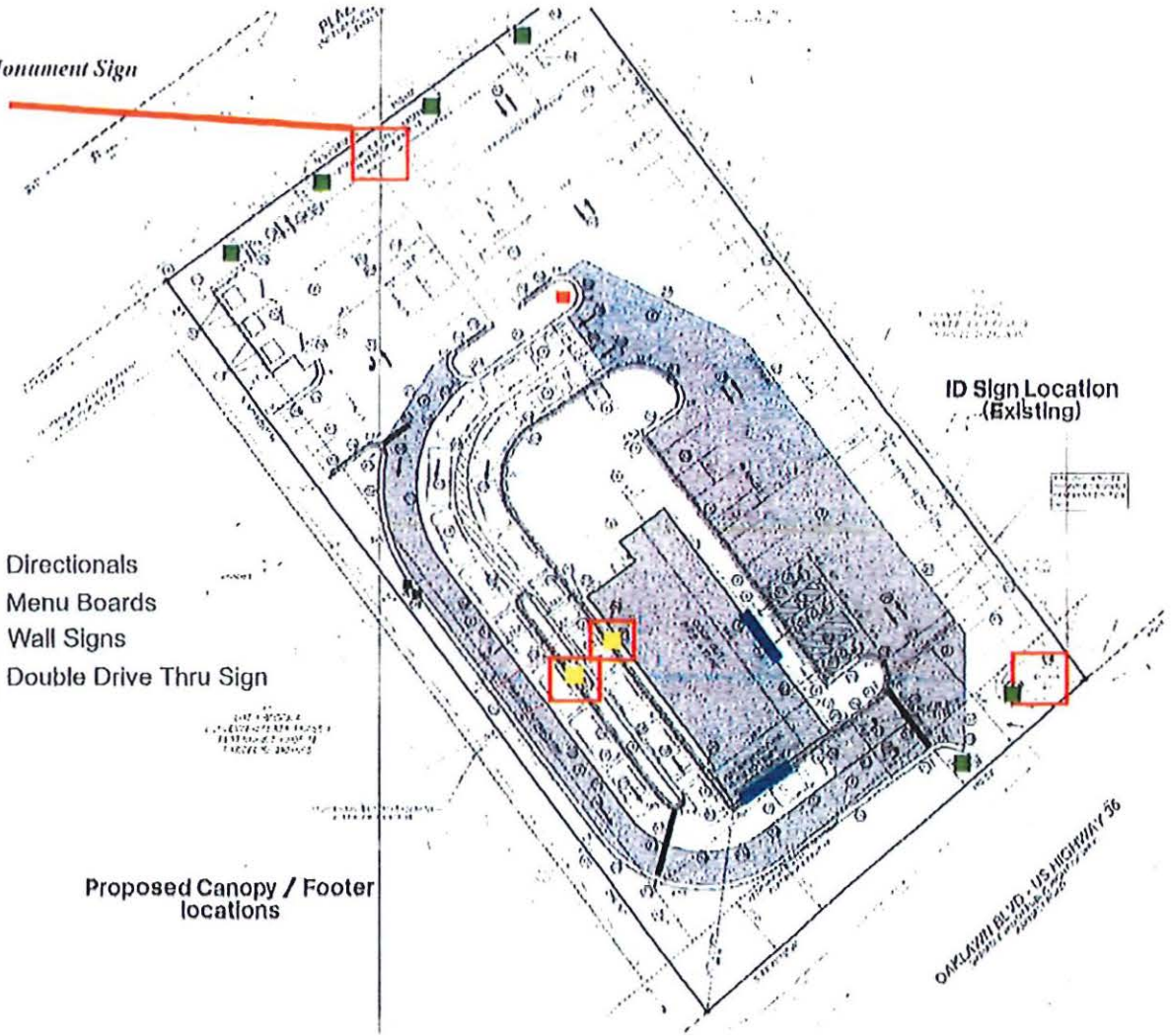
Building Official Approval: _____

Date: _____

Zoning Official Approval: _____

Date: _____ Ward #: 7

New Monument Sign



- Directionals
- Menu Boards
- Wall Signs
- Double Drive Thru Sign

ID Sign Location
(Existing)

Proposed Canopy / Footer
locations

OAKLAND BLVD - I-580 HIGHWAY 58

Specifications:

Secondary ID option below. To feature cookout channel letters with white faces, returns and trim cap. Spatula to have white trim cap and returns with 3M metallic gold vinyl applied to faces. Flame to have red returns, faces, and trim cap. Shown below with LED message board.



1465 Ladonia Church Rd,
Mount Airy, NC 27030
336-352-4300

PER CITY ORDINANCE LED BOARD CAN ONLY CHANGE EVERY 5 SECONDS*

#4 Monument Sign



Location:

Hopewell, VA

Drawn By:

A. Love

Date Issued:

6/13/2023

Sales:

Dale Golding

<input checked="" type="checkbox"/>	EMSC
<input type="checkbox"/>	White
<input type="checkbox"/>	3M Metallic Gold
<input type="checkbox"/>	Red

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5105 Oaklawn Blvd. – Parcel #240-0010 Modification to Development Standards

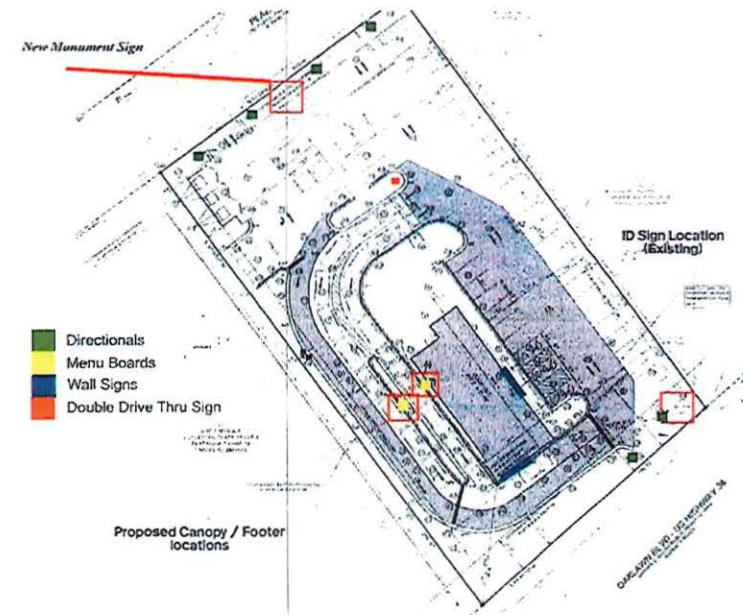
JULY 23, 2024

CITY COUNCIL PUBLIC HEARING



5105 Oaklawn Blvd. – Parcel #240-0010

Requesting to allow second freestanding sign at second entrance




5105 Oaklawn Blvd. – Parcel #240-0010

The proposed second sign will conform to the city's freestanding sign specifications.

Specifications:

Secondary ID option below. To feature cookout channel letters with white faces, returns and trim cap. Spatula to have white trim cap and returns with 3M metallic gold vinyl applied to faces. Flame to have red returns, faces, and trim cap. Shown below with LED message board.

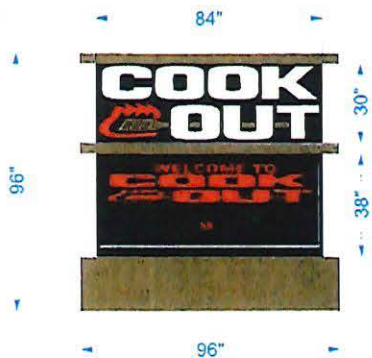


M & M
SIGNS
& AWNINGS
INC.


1485 Ladonia Church Rd.
Mount Airy, NC 27030
336-352-4300

PER CITY ORDINANCE LED BOARD CAN ONLY CHANGE EVERY 5 SECONDS

#4 Monument Sign



Location:	Drawn By:	Date Issued:	Sales:
Hopewell, VA	A. Love	6/13/2023	Dale Goding

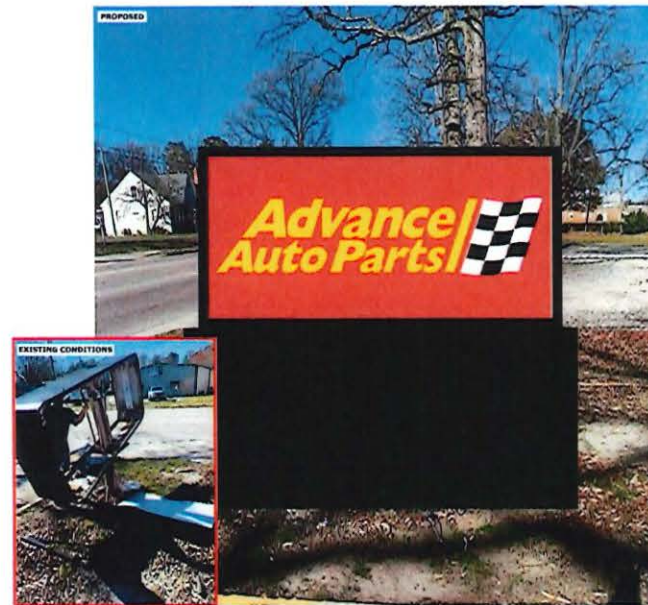


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5105 Oaklawn Blvd. – Parcel #240-0010

City Council previously approved second freestanding sign for business with 2 frontages



atlas
Signage Solutions

National Headquarters: 1077 West Nile Mason Blvd.
West Palm Beach, Florida 33414
888.777.7932
www.atlas2for.com

PROJECTS:
04.06.2021 (10%) Approval for sign ground sign
05.06.2021 (10%) Approval for sign on pole
05.06.21 (10%) Approval for sign on pole

Site #2850
S01

PLT: Horvath R
CREATED BY: RRL
DATE: 05/26/2021


ADDRESS: 3609 Oaklawn Blvd
CITY: Hopewell, VA 23860
TRACKING NUMBER: 166472-501

Considerations for Modifications to Development Standards

A Modification to Development Standards should **not** be granted if:

- 1) The granting of the modification will constitute the granting of a variance, special exception, conditional use, or a rezoning.
- 2) Ordinary financial considerations are the principal reason for the requested modification.
- 3) The modification amends a property-specific condition imposed by the City Council or the Board of Zoning Appeals, unless such condition specifically grants such modification authority to the City Council.
- 4) The applicant created the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including, but not limited to the acquisition of additional property, the elimination or redesign of structures, or the reduction of the development density.

Article XVIII, Section G, 5(a-d) of the Hopewell Zoning Ordinance



Staff Recommendation

Staff recommends approval of the Modification to Development Standards request to install a second freestanding, monument-style sign for Parcel #240-0010 to be located at the Plaza Drive entrance in conformance with the City's freestanding sign specifications.

Planning Commission Recommendation

Planning Commission recommended approval 5-0 of the Modification to Development Standards request as presented (June 13, 2024).

Public Comment

None



Questions?



RESOLUTION NO. 2024-0723

A RESOLUTION OF THE APPROVAL OF THE MODIFICATION TO DEVELOPMENT STANDARDS APPLICATION SUBMITTED M&M SIGNS, INC. TO CONSTRUCT A INSTALL A SECOND FREESTANDING SIGN AT 5105 OAKLAWN BOULEVARD, ALSO IDENTIFIED AS PARCEL #240-0010

WHEREAS, §15.2-2200 et. seq. of the Code of Virginia, 1950 gives localities authority to approve subdivisions, plats, site plans or plans of development along with the authority to permit special exceptions, special uses, or conditional uses in its local zoning ordinances; and

WHEREAS, the applicant, M&M Signs, Inc. seeks approval for a Modification to Development Standards application for the property listed as 5105 Oaklawn Boulevard, Hopewell, Virginia; and

WHEREAS, the applicant's request for a second freestanding sign does not adhere to existing local zoning ordinances and therefore is not allowable by right; and

WHEREAS, Article XVIII, Section F, Item 8e restricts the number of freestanding signs to one per parcel; and

WHEREAS, the application requires additional approval from City Council to ensure that the requested use is appropriate for the proposed property; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council for the City of Hopewell approves the Modification to Development Standards application submitted by M&M Signs, Inc. to construct a second freestanding sign in accordance with the City's freestanding sign specifications at 5105 Oaklawn Blvd., also identified as Parcel #240-0010.

In witness whereof, the foregoing was adopted by the Hopewell City Council on July 23, 2024.

Mayor Partin-
Vice Mayor Gore-
Councilor Denton-
Councilor Pelham-
Councilor Holloway-
Councilor Joyner-
Councilor Harris-

John Partin, Mayor of Hopewell

ATTEST:

Brittani Williams, City Clerk



REQUEST FOR MODIFICATION TO DEVELOPMENT STANDARDS TO INSTALL A SECOND FREESTANDING SIGN ON PARCEL #240-0010, 5105 OAKLAWN BLVD.



CITY COUNCIL

STAFF REPORT

Staff from the Hopewell Department of Development has drafted this report to assist City leadership with making informed decisions regarding land use cases in Hopewell.

I. EXECUTIVE SUMMARY

The applicant, Jodi Sims of M&M Signs, Inc. and agent for Cook Out restaurant, requests a Modification to Development Standards to construct a second freestanding sign on Parcel #240-0010 located at 5105 Oaklawn Boulevard. Staff recommends approval.

II. TENTATIVE SCHEDULE OF MEETINGS

BODY	DATE	TYPE	RESULT
Planning Commission	June 13, 2024	Public Hearing	Pending
City Council	June 25, 2024	1 st Reading	No Action
City Council	July 23, 2024	2 nd Reading / PH	Pending

III. IDENTIFICATION AND LOCATIONAL INFORMATION

Existing Zoning	B-3 – Highway Commercial District
Requested Zoning	N/A
Acreage	~1.008 acres / 43,908 sf
Legal Description	LOT 4 BLK A BOULEVARD PLAZA PHASE ONE
Election Ward	7
Future Land Use	Interchange Commercial
Strategic Plan Goal	Economic Development
Approval Method	City Council Resolution
Can Conditions be set?	Yes
Map Location	Parcel #240-0010

IV. PUBLIC NOTIFICATION

PUBLIC HEARING	NOTIFICATION TYPE	DATE	DATE
Planning Commission	Progress-Index Ad	6/4//2024	6/11/2024
	Letter to Adj. Properties	5/31/2024	
City Council	Progress-Index Ad	7/9/2024	7/16/2024
	Letter to Adj. Properties	7/15/2024	

V. ROLE OF PLANNING COMMISSION AND CITY COUNCIL

Excerpted and paraphrased from *Handbook for Virginia Mayors & Council Members*

Within each zoning district some uses are permitted as a matter of right and others are only conditionally permitted. The theory behind the conditional use approach is that the particular use has a certain level of negative externality which, if properly managed, could allow the use to be established in the district. Absent proper management, conversely, the use is most likely unacceptable. The conditional use permit process affords a case-by-case review. It is up to the local governing body to establish the conditions under which the Modification to Development Standards is to be approved; applicants/property owners are not required to agree to the conditions imposed for them to be valid and binding on the property. The question being considered is whether the proposed use in the proposed location can be conditioned in such a way as to prevent negative externalities from being imposed on adjacent and nearby properties. Possible negative externalities can comprise a long list that are often spelled out in the ordinance – smoke, dust, noise, trash, light, traffic, incompatible activity levels or hours of operation, likelihood of trespass on adjoining properties, stormwater/drainage runoff, inadequate public infrastructure, and many more.

Modifications to Development Standards in Hopewell run with the land and not the owner.

VI. APPLICABLE CODE SECTIONS

1. [Article XVIII, Development Standards, Section F. Signage](#)
2. [Article XVIII, Development Standards, Section G. Modifications to development standards or requirements](#)

VII. SUBJECT PROPERTY

The subject property, Parcel #240-0010, is an interior lot fronting Oaklawn Boulevard with rear access to Plaza Drive. The property dimensions are approximately 160 feet wide along Oaklawn Blvd. by 275 feet deep for a total of 44,000 square feet. The parcel is zoned B-3

Highway Commercial District and is currently under construction. The resulting business will be a Cook Out restaurant. Plaza Drive will likely become the primary entrance for the restaurant based on the long drive-thru lines that have been observed at other Cook Out locations.

VIII. APPLICANT POSITION

The applicant proposes to reface an existing pole sign at the Oaklawn Boulevard entrance and construct a new monument-style freestanding sign at the Plaza Drive entrance. The applicant points out that neighboring businesses have more than one freestanding sign.

IX. STAFF ANALYSIS

When considering a modification to a development standard, one must consider the four conditions outlined in Article XXIII of the Zoning Ordinance. The Planning Commission may also impose conditions that are suitable to ensure the character of the neighborhood and zoning district in which the use is locating will not be adversely affected. Conditions may also dictate the architectural style of a proposed structure to ensure it will not be at variance with either the exterior architectural appeal and/or the functional plan of the structures already constructed in the immediate neighborhood or the character of the applicable zoning district.

The four (4) considerations are:

- a. Does the granting of the modification constitute the granting of a variance, special exception, conditional use, or rezoning?
- b. Are ordinary financial considerations the principal reason for the requested modification?
- c. Does the modification amend a property-specific condition imposed by the City Council or the Board of Zoning Appeals, unless such condition specifically grants such modification authority to the City Council?
- d. Did the applicant create the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including but not limited to, the acquisition of additional property, the elimination or redesign of structures, or the reduction of the development density?

X. RELATIONSHIP TO THE COMPREHENSIVE PLAN

Signage is not addressed in the Comprehensive Plan.

XI. STAFF RECOMMENDATION

Section G of Article XVIII, copied on page 3 of this report provides the criteria for approval of a modification. If the applicant meets any of these criteria, the modification cannot be granted.

- a. The granting of the modification will constitute the granting of a variance, special exception, conditional use or a rezoning. **This request does not meet the criteria for a variance, special exception, conditional use or a rezoning.**
- b. Ordinary financial considerations are the principal reason for the requested modification. **Financial considerations are not the principal or secondary reason for the requested modification.**
- c. The modification amends a property-specific condition imposed by the City Council or the Board of Zoning Appeals, unless such condition specifically grants such modification authority to the City Council. **The modification will not amend a property-specific condition.**
- d. The applicant created the condition or situation generating the need for the modification and the applicant has not exhausted all other practicable solutions to the problem, including, but not limited to, the acquisition of additional property, the elimination or redesign of structures, or the reduction of the development density. **The applicant did not create the situation.**

A similar application for a second freestanding sign on Oaklawn Boulevard was approved by City Council last year. Staff concludes that the application does not meet any of the criteria to deny and, therefore, recommends approval of the Modification to Development Standards request to install a second freestanding, monument-style sign for Parcel #240-0010 to be located at the Plaza Drive entrance in conformance with the City's freestanding sign specifications.

XII. PLANNING COMMISSION RECOMMENDATION

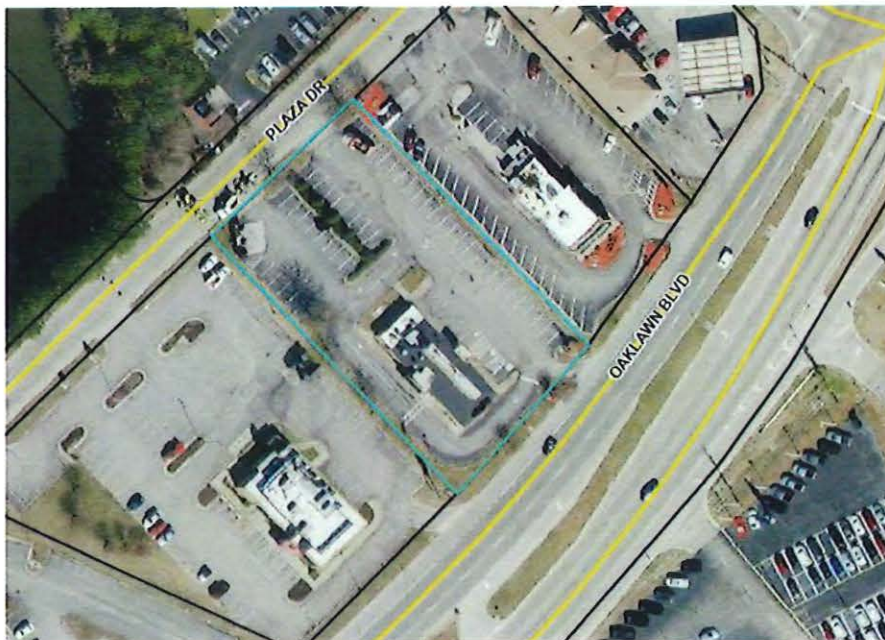
The Hopewell Planning Commission recommended approval 5-0 of the Modification to Development Standards request to allow a second, freestanding monument-style sign on Parcel #240-0010 at the Plaza Drive entrance in conformance with the City's freestanding sign specifications. (June 13, 2024)

APPENDIX A - MAPS

CITY LOCATIONAL MAP – Yellow Circle indicates general area



PROPERTY LOCATION – Yellow circle indicates general location of Parcel #240-0010



Specifications:

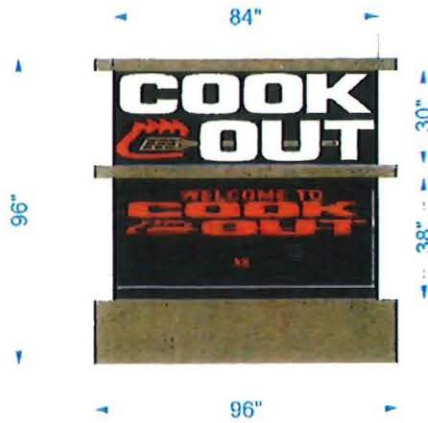
Secondary ID option below. To feature cookout channel letters with white faces, returns and trim cap. Spatula to have white trim cap and returns with 3M metallic gold vinyl applied to faces. Flame to have red returns, faces, and trim cap. Shown below with LED message board.



1465 Ladonia Church Rd,
Mount Airy, NC 27030
336-352-4300

PER CITY ORDINANCE LED BOARD CAN ONLY CHANGE EVERY 5 SECONDS

#4 Monument Sign



Location:
Hopewell, VA

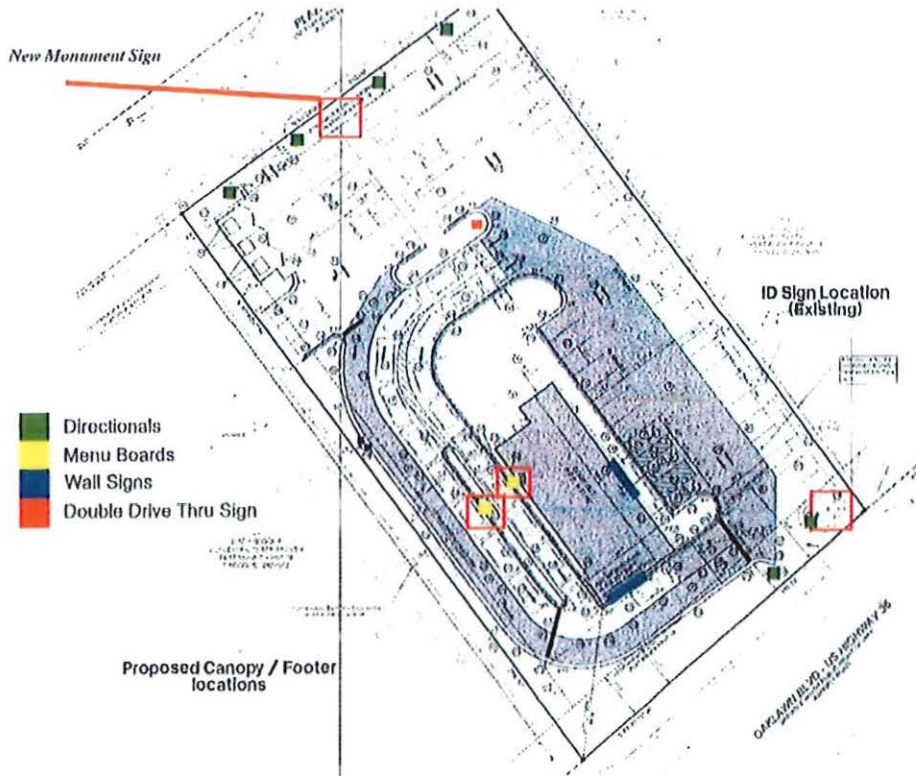
Drawn By:
A. Love

Date Issued:
6/13/2023

Sales:
Dale Golding

■	EXIST. BLDG
■	EXIST. SIGN
■	PROPOSED SIGN
■	PROPOSED BLDG

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PH-2



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- Civic Engagement
- Culture & Recreation
- Economic Development
- Education
- Housing
- Safe & Healthy Environment
- None (Does not apply)

Order of Business:

- Consent Agenda
- Public Hearing
- Presentation-Boards/Commissions
- Unfinished Business
- Citizen/Councilor Request
- Regular Business
- Reports of Council Committees

Action:

- Approve and File
- Take Appropriate Action
- Receive & File (no motion required)
- Approve Ordinance 1st Reading
- Approve Ordinance 2nd Reading
- Set a Public Hearing
- Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Public Hearing to appropriate Community Development Block Grant funds for Program Year 2024-2025.

ISSUE: HUD requires the City to appropriate CDBG funds each program year. Appropriations must be made prior to August 16, 2024.

RECOMMENDATION: The City Administration recommends approval of the funding appropriation and authorizes the City Manager to submit the 5th Year Annual Action Plan.

TIMING: City Council action is required on July 23, 2024 after the public hearing.

BACKGROUND: Please refer to presentation for more information.

ENCLOSED DOCUMENTS: presentation

STAFF: Christopher Ward, Director of Development

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call

SUMMARY:

- | | | | | | |
|--------------------------|--------------------------|-----------------------------------|--------------------------|--------------------------|--|
| Y | N | | Y | N | |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Rita Joyner, Ward #1 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Janice Denton, Ward #5 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Michael Harris, Ward #2 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Brenda Pelham, Ward #6 |
| <input type="checkbox"/> | <input type="checkbox"/> | Mayor John B. Partin, Ward #3 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Dominic Holloway, Sr., Ward #7 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vice Mayor Jasmine Gore, Ward #4 | | | |

SUMMARY:

Y N

- Councilor Rita Joyner, Ward #1
- Councilor Michael Harris, Ward #2
- Mayor John B. Partin, Ward #3
- Vice Mayor Jasmine Gore, Ward #4

Y N

- Councilor Janice Denton, Ward #5
- Councilor Brenda Pelham, Ward #6
- Councilor Dominic Holloway, Sr., Ward #7



COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING

Program Year 2024-2025

MISSION OF HUD & PURPOSE OF CDBG PROGRAM

- The City of Hopewell is a Community Development Block Grant (CDBG) Entitlement community.
- HUD's mission is to create strong, sustainable, inclusive communities and quality affordable homes for all.
- CDBG fund expenditures must meet at least one of three national objectives:
 - 1) Benefit to Low-to-Moderate Income persons
 - 2) Prevention or elimination of slums and blight
 - 3) Urgent Need

CONSOLIDATED PLAN

The City's 2020-2025 Consolidated Plan states the following goals.

- Rehabilitation of Housing
- Education, primarily adult and pre-school literacy
- Household Services including elderly and disabled
- Infrastructure
- Homelessness Prevention

PAST AND CURRENT CDBG FUNDING

Year	Allocation
2018	\$177,848
2019	\$190,398
2020	\$210,670
2021	\$225,151
2022	\$225,305
2023	\$236,121
2024	\$242,417
Total FY18 - FY24	\$1,507,910

GRANT PARAMETERS

The grant is divided into three categories:

- **Administration (20% cap)**
- **Public Service Programs (15% cap)**
- **Infrastructure & Housing Rehabilitation (65% or remaining)**

2023-2024 CDBG BUDGET RECOMMENDATIONS



GENERAL ADMINISTRATION
\$48,483.00 (20% CAP)

Recommended Amount	Project	Organization	Description	Goal
\$48,483.00	General Administration	City of Hopewell- Department of Development	Provides funds to manage all aspects of grants management for HUD funds including budgeting, written agreements, reporting, compliance management and monitoring, advertising and fair housing.	Maintain effective government with optimal management and service practices, fully compliant with federal programs

**PUBLIC SERVICE
\$36,363 (15% CAP)**

Recommended Amount	Project	Organization	Description	Goal
\$11,363	Yellow Card Program	Hebron's Rocks to Rulers	Youth entrepreneurship development	Household Services
\$10,000	Child Abuse Prevention	Healthy Families	Provides counseling to at-risk families	Youth Services
\$15,000	Domestic Violence Intervention	The James House	Provides housing assistance and case management support for victims and families of violence.	Family Services
\$36,363 TOTAL				

HOUSING REHABILITATION \$157,571 (65%)

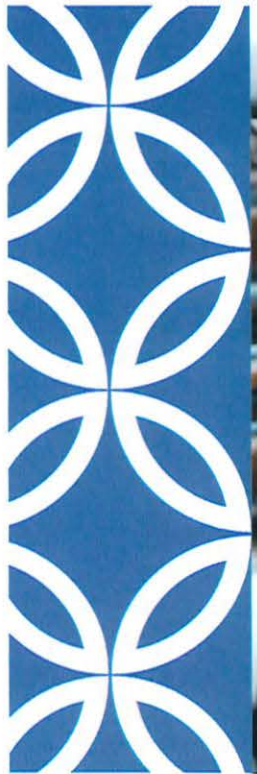
Recommended Amount	Project	Organization	Description	Goal
\$102,571	Housing Rehabilitation	Project Homes	Rehabilitates homes owned by income eligible homeowner households	City Beautification; Neighborhood Revitalization
\$55,000	Housing Rehabilitation	Rebuilding Together	Rehabilitates homes owned by income eligible homeowner households	City Beautification; Neighborhood Revitalization
\$157,571 total				

FY 2024-2025 PROPOSED BUDGET

Budget Item	Recommended Funding	Description
HUD Allocation	\$242,417	
Public Service (15% of total allocation)	\$36,363	Program to support victims of domestic violence, youth services, and prevention of child neglect/abuse
Housing Rehab (65% of total allocation)	\$157,571	Housing rehabilitation of qualified owner-occupants
Administration (20% of total allocation)	\$48,483	

FY 2024-2025 PROPOSED BUDGET CONTINUED

Budget Item	Recommended Funding	Description
Commonwealth Catholic Charities	\$31,202.27	CDBG-CV funding – Homeless outreach and assistance
City of Hopewell – Winston Churchill Drainage Improvement Project	\$300,000	Unspent CDBG funds from previous years (2018-2023)



APPROVE FY2024-2025 CDBG BUDGET TOTALING
\$242,417.

PROVIDE AUTHORIZATION FOR THE CITY MANAGER TO
SUBMIT THE 5TH YEAR ANNUAL ACTION PLAN TO HUD.

RECOMMENDATIONS

REGULAR BUSINESS

R-1



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- Civic Engagement
- Culture & Recreation
- Economic Development
- Education
- Housing
- Safe & Healthy Environment
- None (Does not apply)

Order of Business:

- Consent Agenda
- Public Hearing
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- Regular Business
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Action:

- Approve and File
- Take Appropriate Action
- Receive & File (no motion required)
- Approve Ordinance 1st Reading
- Approve Ordinance 2nd Reading
- Set a Public Hearing
- Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Enter Test Here

ISSUE: At the June 22, 2023 State Water Control Board (Board) meeting, the Board approved and adopted the Virginia Erosion and Stormwater Management (VESM) Regulation (9VAC25-875) and approved the repeal of the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870). The VESM Regulation and repeal of the other regulations, became effective as of July 1, 2024.

The erosion and stormwater management program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities for land-disturbing activities into a more convenient and efficient manner for the City of Hopewell’s Stormwater and Engineering Staff.

Currently, Chapter 14 of the City Ordinance incorporates the repealed laws, regulations, and state code referenced above. The way Chapter 14 of the City’s Ordinance stands today, the Engineering and Stormwater Department is unable to maintain compliance per the requirements of the City’s MS4 Permit, which is regulated by State Agency. To adhere to state law City Staff has prepared revised language to Chapter 14 of the City Ordinance to be consistent with § 62.1-44.15:24 through 62.1-44.15:50 of the Code of Virginia, which combines stormwater management and erosion and sediment control requirements under the Virginia Erosion and Stormwater Management Act.

SUMMARY:

Y N

- Councilor Debbie Randolph, Ward #1
- Councilor Arlene Holloway, Ward #2
- Vice Mayor John B. Partin, Ward #3
- Councilor Jasmine Gore, Ward #4

Y N

- Councilor Janice Denton, Ward #5
- Councilor Brenda Pelham, Ward #6
- Mayor Patience Bennett, Ward #7

RECOMMENDATION: City Staff recommends approval.

TIMING: On June 22, 2023 the State Water Control Board approved and adopted the Virginia Erosion and Stormwater Management Regulations and approved the repeal of the Erosion and Sediment Control Regulation, Erosion and Sediment Control and Stormwater Management Certification Regulations, and Virginia Stormwater Management Regulations. As of July 01, 2024 the newly adopted regulations came into effect.

BACKGROUND: Pursuant to §62.1-44.15:27 of the Code of Virginia, this ordinance is adopted as part of an initiative to integrate the City of Hopewell’s stormwater management requirements with the City of Hopewell’s erosion and sediment control, flood insurance, and flood plain management, and Chesapeake Bay Preservation Act requirements into a consolidated erosion and stormwater management program. The erosion and stormwater management program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities for land-disturbing activities into a more convenient and efficient manner for both the City of Hopewell and those responsible for compliance with these programs.

The purpose of this ordinance is to ensure the general health, safety, and welfare of the citizens of Hopewell, protect the quality and quantity of state waters from the potential harm of unmanaged stormwater and soil erosion, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.

This amendment is in accordance with regulatory changes proposed and approved by the state governing body that must be incorporated into the City ordinance.

FISCAL IMPACT: None

ENCLOSED DOCUMENTS:

- Revised language to Chapter 14 – Erosion and Sediment Control and Stormwater Management

STAFF:

Michael Campbell, Director of Public Works; Marshall Hartless, Dep. Director of Public Works – Stormwater & Engineering; Joshua Sementelli, Interim Stormwater Program Manager

FOR IN MEETING USE ONLY

MOTION: _____

SUMMARY:

Y N

Councilor Debbie Randolph, Ward #1
 Councilor Arlene Holloway, Ward #2
 Vice Mayor John B. Partin, Ward #3
 Councilor Jasmine Gore, Ward #4

Y N

Councilor Janice Denton, Ward #5
 Councilor Brenda Pelham, Ward #6
 Mayor Patience Bennett, Ward #7

Roll Call

SUMMARY:

Y N

- Councilor Debbie Randolph, Ward #1
- Councilor Arlene Holloway, Ward #2
- Vice Mayor John B. Partin, Ward #3
- Councilor Jasmine Gore, Ward #4

Y N

- Councilor Janice Denton, Ward #5
- Councilor Brenda Peiham, Ward #6
- Mayor Patience Bennett, Ward #7

DEPARTMENT OF PUBLIC WORKS

Revisions to Chapter 14 – Erosion and
Sediment Control and Stormwater
Management of City Ordinance

BACKGROUND

- ▶ The City currently owns and operates a Municipal Separate Storm Sewer System (MS4) that is regulated under the Federal Clean Water Act through a permit issued by the Virginia Department of Environmental Quality.
- ▶ Through this Permit the City has been operating as both a Virginia Erosion and Sediment Control Program (VESCP) and Virginia Stormwater Management Program (VSMP).
- ▶ The City's VESCP & VSMP have been conducted under 9VAC25-840 and 9VAC25-870 respectively under state regulations.

TIMING

- ▶ As of July 01, 2024 the Virginia Erosion and Stormwater Management Act (VESMA), §§ 62.1-44.15:24 through 62.1-44.15:50 of the Code of Virginia, became effective.
- ▶ This bill, commonly referred to as the “Consolidation Bill,” combine the stormwater management and erosion and sediment control requirements into the VESMA.
- ▶ Under this Bill, 9VAC25-875 effectively replaced 9VAC25-840 and 9VAC25-870, as both were repealed starting June 01, 2024.

ADDITIONAL INFORMATION

- ▶ All changes were based on a model ordinance provided by a memorandum from the Department of Environmental Quality dated December 17, 2023.
- ▶ Due to state regulatory changes, the modification made to the city's current ordinance is the creation of the Virginia Erosion and Stormwater Management Program (VESMP), which replaces the VESCP and VSMP the City currently operates under.
- ▶ The intent behind these regulatory changes is to eliminate any confusion, redundancy, or conflicts that may have existed between the State's Stormwater Management and Erosion and Sediment Control regulations.
- ▶ The extent of the revisions made to the ordinance include, but are not limited to, minute changes to definitions to be in sync with state code, syntactic changes, elimination of any reference to repealed state code or regulations, the addition of new state code and regulation that may be referenced.

RECOMMENDATION

- ▶ To maintain compliance with state law and the City's MS4 Permit, Chapter 14 of the City Ordinance, Erosion and Sediment Control and Stormwater Management, staff requests revision to reflect the new language under the Virginia Erosion and Stormwater Management Act. (The new ordinance is attached to this agenda packet.)

Ordinance: _____

**AN ORDINANCE AMENDING CHAPTER 14 EROSION AND SEDIMENT CONTROL
AND STORMWATER MANAGEMENT**

WHEREAS, pursuant to Va. Code Ann. §§15.2-1100, 15.2-1425, 15.2-1427, and Chapter IV of the Hopewell City Charter, the Hopewell City Council which is also authorized to adopt, amend, or repeal an ordinance; and

WHEREAS, on June 22, 2023, the Virginia State Water Control Board adopted the Virginia Erosion and Stormwater Management (VESM) Regulation (9VAC25-875) effective July 1, 2024; and

WHEREAS, on June 22, 2023, the Virginia State Water Control Board approved the repeal of the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870) effective July 1, 2024; and

WHEREAS, on July 1, 2024, Chapters 68 and 758 of the 2016 Acts of Assembly became effective; and

WHEREAS, the City of Hopewell desires to update this ordinance to reflect the new law and regulations pursuant to Chapter IV § 8 of the *Charter of the City of Hopewell*; and

WHEREAS, the full text of this proposed ordinance was available for the public at a City Council meeting held on July 23, 2024; now therefore

BE IT ORDAINED by the council of the City of Hopewell that Chapter 14 (Erosion and Sediment Control and Stormwater Management) of the *Code of the City of Hopewell* is hereby amended and reenacted on this 23rd day of July 2024, as set forth below:

Chapter 14 EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT¹

ARTICLE I. IN GENERAL

Sec. 14-1. Definitions.

As used in Articles I and II of this chapter, the following words and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

Agreement in lieu of a plan: a contract between the City of Hopewell and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of VESMA for the construction of a single-family detached residential structure; such contract may be executed by the City of Hopewell in lieu of a soil erosion control and stormwater management plan.

Applicant: means a person submitting a soil erosion control and stormwater management plan to a VESMP authority for approval in order to obtain authorization to commence a land-disturbing activity.

Board: The State Water Control Board.

Certified inspector: An employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of project inspection or (ii) is enrolled in the board's training program for project inspection and successfully completes such program within one (1) year after enrollment.

Certified plan reviewer: An employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of plan review, (ii) is enrolled in the board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (iii) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (Section 54.1-400 et. seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

Certified program administrator: An employee or agent of a program authority who (i) holds a certificate of competence from the board in the area of program administration or (ii) is enrolled in the board's training program for program administration and successfully completes such program within one (1) year after enrollment.

City: The City of Hopewell.

¹Cross reference(s)—Building regulations, Ch. 11.

State law reference(s)—Local governments to adopt and administer erosion and sediment control program, Code of Virginia, § 62.1-44.15:54; Erosion and Sediment Control Law, Code of Virginia, § 62.1-44.15:51 et seq.

Clearing: Any activity which removes the vegetative ground cover, including but not limited to, root mat removal or top soil removal or relocation.

Development: 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 nonagricultural or non silvicultural purposes. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

Erosion and sediment control plan or conservation 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. A component of the ESM Plan.

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

ESM Plan: A soil erosion control and stormwater management plan, commonly referred to as the erosion control and stormwater management plan.

Excavating: Any digging, scooping or other method of removing earth materials.

Filling: Any depositing or stockpiling of earth materials.

Grading: Any excavating or filling of earthy materials or any combination thereof, including the land in its excavated or filled condition.

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-disturbing permit: A permit issued by the City of Hopewell Erosion and Stormwater Management Program for clearing, filling, excavating, grading, or transporting, or any combination thereof, of all lands, except as excluded elsewhere in this chapter.

Local Erosion and Stormwater Management Program or VESMP: A program established by the VESMP Authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

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

Permittee: The person to whom the permit is issued.

Person: Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town or other political subdivision of the commonwealth, any interstate body, or any other legal entity.

Plan-approving authority: The board, the program authority, or a department of the program authority, responsible for determining the adequacy of a conservation plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

Program authority: The City of Hopewell, which has adopted a Erosion and Stormwater Management Program approved by the board.

Responsible land disturber: 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 or ESM 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, ESM plan, or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

Single-family residence: A structure arranged or designed to be occupied by one (1) family, the structure having only one (1) dwelling unit.

Soil erosion control and stormwater management plan: Commonly referred to as the erosion control and stormwater management plan, or “ESM Plan” means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to the VESMA. The ESM Plan may consist of aspects of the erosion and sediment control plan and stormwater management plan.

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

Transporting: Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs. (Ord. of 2-24-76, § 2; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Sec. 14-2. Exemptions from chapter.

- (1) The provisions of this chapter shall not apply to the following:
- (2) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.

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- (3) Installation, maintenance, or repair of any individual service connection.
 - (4) Installation, maintenance or repair of any underground public utility lines, when such activity occurs on an existing hard-surfaced road, street or sidewalk, provided such land-disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced.
 - (5) Installation, maintenance, or repair of any septic tank link or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system.
 - (6) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia.
 - (7) Repair or rebuilding of the tracks, right-of-way, bridges, communication facilities and/or other related structures and facilities of a railroad company.
 - (8) Disturbed areas for commercial or noncommercial uses of less than two thousand five hundred (2,500) square feet in size; provided, however, that the city council may reduce this exception to a smaller area of disturbed land and/or qualify the conditions under which this exception shall apply.
 - (9) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.
 - (10) 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 City of Hopewell shall be advised of the disturbance within 7 days of commencing the land-disturbing activity, and compliance with the administration requirements of subsection A is required within 30 days of commencing the land-disturbing activity.
 - (11) Shoreline erosion and control project on tidal waters when all the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources of 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 the VESMA and the regulations adopted pursuant thereof.
 - (12) Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting, of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including construction of terraces, terrace outlets, check dams, desilting Bains, dike, ponds, ditches, strip cropping, lister, furrowing, contour furrowing, land drainage, and land irrigation; or as additionally set forth by the Board in regulations. However, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or natural in accordance with Provisions of Chapter 11 (§ 10,1-1100 et seq. of the Code of Virginia) or is converted to bona fide agricultural or improved pasture use as described in in subsection B of §10,1-1163 of the Code of Virginia.

(Ord. of 2-24-76, § 3; Ord. No. 80-9, 6-24-80; Ord. No. 82-1, 2-23-82; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Sec. 14-3. Enforcement of chapter generally.

Enforcement of this chapter shall rest with the city manager or his duly authorized representative, who shall enforce the provisions of this chapter as a portion of review, approval and inspection under the provisions of the subdivision ordinance.

(Ord. of 2-24-76, § 4; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Cross reference(s)—Subdivision ordinance, App. B.

Sec. 14-4. Chapter to be administered in conjunction with subdivision and zoning ordinances.

It is the intent of this chapter that it will be administered in conjunction with the city's subdivision and zoning ordinances wherein such apply to the development on previously subdivided land within the city.

(Ord. of 2-24-76, § 1; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Cross reference(s)—Zoning ordinance, App. A; subdivision ordinance, App. B.

Sec. 14-5. Inspection of land-disturbing activities; notice and correction of defects.

- a) The city manager or his duly authorized representative, meeting the certification requirements of the State Water Control Board, shall conduct periodic inspections in accordance with 9VAC25-875-330 of projects undertaken under the provisions of this chapter to ensure compliance with approved plans and to determine the effectiveness of the control measures. The right of entry to conduct such inspection shall be expressly reserved to the city in the land-disturbing permit. The permit holder or his duly authorized representative will be afforded the opportunity to accompany the inspector.
- b) If the city manager or his duly authorized representative, meeting the certification requirements of the State Water Control Board, finds that a permit holder has failed to comply with the plan, he shall immediately serve notice upon such permit holder, by delivery of facsimile, email, or other technology; by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, if available, or in the land records of the locality; or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. Such notice shall set forth specifically the measures needed to come into compliance with the plan, and shall specify the time within such measures shall be completed. If the permit holder fails to comply within the time specified in the notice, the permit is subject to revocation.
- c) Upon receipt of a sworn complaint of a violation of this section, or Code of Virginia, § 62.1-44.15 from the representative of the program authority or the board responsible for ensuring program compliance, the chief administrative officer, or his designee, of the

program authority or the board may, in conjunction with or subsequent to a notice to comply as specified in subsection (b) above, 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 or, if land-disturbing activities have commenced without an approved plan provided in Code of Virginia, § 62.1-44.15-55, 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 whether or not the alleged violator has been issued a notice to comply as specified in subsection (b) above. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for seven (7) days from the date of service pending application by the enforcing authority or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred.

(Ord. of 2-24-76, § 8; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Sec. 14-6. Bond, deposit, etc., may be required for land-disturbing activities.

- (a) The city manager, or his duly authorized representatives, prior to the issuance of any grading, land-disturbing, building or other permit involving any land-disturbing activity, may require from any applicant a reasonable performance bond, cash escrow, letter of credit, any combination thereof or such other legal arrangements as is acceptable to the city manager, or his duly authorized representative, to ensure that measures can be taken by the city, at the applicant's expense, should the applicant or his agent fail, after proper notice within the time specified, to initiate and maintain appropriate conservation action which may be required of him because of his land-disturbing activity. If the city takes such conservation action upon such failure by the permittee, the city may collect from the permittee for the difference should the amount of the reasonable cost of such action exceed the amount of the security held.
- (b) Refund of such bond or release of such security, escrow or instruments shall be effective within sixty (60) days after the satisfactory completion or termination (final stabilization) of the project as determined by the City of Hopewell.
- (c) Where land-disturbing activities involve lands under the jurisdiction of more than one (1) local control program, a soil erosion control and stormwater management plan may, at the option of the applicant, be submitted to the board for review and approval rather than to each jurisdiction concerned. Where the land-disturbing activity results from the construction of a single-family residence, an agreement in lieu of a plan may be substituted for a soil erosion control and stormwater management plan if executed by the plan-approving authority.

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- (d) The provisions of this section are in addition to all other provisions of law which relate to the issuance of such permits, and they shall not be construed to otherwise affect the requirements for such permits.

(Ord. of 2-24-76, § 7; Ord. No. 80-9, 6-24-80; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Sec. 14-7. Appeals from decisions under chapter.

Any applicant or permit holder under the provisions of this chapter, who is aggrieved by any action of the city manager or his duly authorized representative in the interpretation of this chapter or in disapproving plans submitted in accordance with this chapter, shall have the right to appeal such decision or interpretation to the board of appeals provided for by article II, division 2, of chapter 11 of this Code. Such appeals shall be filed with the city manager, or his duly authorized representative, within ten (10) days of the decision deemed adverse to the applicant or the permit holder. The board of appeals shall hear the appeal within two (2) weeks from the date of appeal. The written decision of such board shall be final unless appealed to the court having jurisdiction over such matters within thirty (30) days from the date of the written decision of the board.

(Ord. of 2-24-76, § 11; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Sec. 14-8. Penalty for violations of chapter.

Violations of any regulation or order of the board, any provision of the city's program, any condition of a permit issued under this chapter, or any provision of this chapter shall be subject to civil penalties as prescribed in Code of Virginia, § 62.1-44.15-55, and all amendments thereto; however, violations punishable as criminal offenses under state law may be prosecuted as such.

(Ord. of 2-24-76, § 12; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Secs. 14-9—14-25. Reserved.

ARTICLE II. PERMIT AND PLAN FOR LAND-DISTURBING ACTIVITIES

Sec. 14-26. Required.

- (a) Except as otherwise provided in this chapter, no person shall engage in any land-disturbing activity until such person has submitted to, has had reviewed by and has had approved by the city manager, or his duly authorized representative, a soil erosion control and stormwater management plan for such land-disturbing permit therefor.
- (b) Where the land-disturbing activity results from the construction of a single-family residence, an "agreement in lieu of a plan" may be substituted for soil erosion control and stormwater management plan if executed by the plan approving authority.

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- (c) No officer or employee of the city shall issue any grading, building or other permit for activities which involve exposure of land to erosion, as provided in this chapter, unless the applicant therefor submits with his application the approved plan from the city manager or his duly authorized representative, and the applicant's certification that such plan will be followed.
 - (d) For the purposes of this section, when land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of a soil erosion control and stormwater management plan shall be the responsibility of the owner.

(Ord. of 2-24-76, §§ 1, 7; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

State law reference(s)—Similar provisions, Code of Virginia, Tit. 62.1, Ch. 3.1, Art. 2.4

Sec. 14-27. Permit application.

- (a) Application for a permit required by this article shall be filed with the city manager or his duly authorized representative, who shall determine the required number of copies of such application.
- (b) The application filed pursuant to this section shall be accompanied by a soil erosion control and stormwater management plan meeting the requirements of this article.

(Ord. of 2-24-76, §§ 4, 5; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Sec. 14-28. Standards, contents, format, etc., of plan.

- (a) A soil erosion control and stormwater management plan filed under this article shall detail the methods and techniques to be utilized to control soil erosion and stormwater management. As a minimum, the plan shall follow the standards and format detailed in the current edition of the Virginia Stormwater Management Handbook, which format is hereby adopted by reference as part of this chapter; provided, however, that wherever such information as is required therein duplicates that required under the city's zoning and subdivision ordinances, a single submission indicating all required information is acceptable. When any of the information required under the plan is deemed not necessary for the review of any particular plan in the opinion of the plan-approving authority, its submission may be waived in writing by the plan-approving authority, provided that state regulations and standards are met in the approved plan.
- (b) The approved standards and specifications for control techniques to be utilized in preparing the plan are set forth in the current edition of the Virginia Stormwater Management Handbook, which standards and specifications are hereby adopted by reference as part of this chapter. State regulations contain the minimum standards, and if there are conflicts between the regulations and the handbook, the regulations take precedence.

(Ord. of 2-24-76, § 5; Ord. No. 82-2, 2-23-82; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

Cross reference(s)—Zoning ordinance, App. A; subdivision ordinance, App. B.

Sec. 14-29. Plan review and inspection fee.

A plan review and inspection fee of twenty-five dollars (\$25.00) for the first acre of land or less in any project, plus ten dollars (\$10.00) for each additional acre of land, or part thereof, in excess of one (1) acre in such project, up to a maximum of one hundred fifty dollars (\$150.00), shall be paid to the city at the time of the filing of an application and a soil erosion control and stormwater management plan under this article.

(Ord. of 2-24-76, § 9; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

State law reference(s)—Authority to impose plan review fee, Code of Virginia, Tit. 62.1, Ch. 3.1, Art. 2.4.

Sec. 14-30. Approval or disapproval of plan.

- (a) The city manager, or duly authorized representative, meeting the certification requirements of the board, shall, within forty-five (45) days, approve any plan submitted to him under this article, if he determines that the plan meets the conservation standards of the local control program, and if the person responsible for carrying out the plan certifies that he will properly perform the soil erosion control and stormwater management measures included in the plan and will comply with the provisions of this chapter. In addition, as a prerequisite to approval of the plan, the person responsible for carrying out the plan shall provide the name of a responsible land disturber, who will be in charge of and responsible for carrying out the land-disturbing activity, in accordance with the approved plan. Such approval of a plan does not in any way waive or abrogate any provisions of the zoning or subdivision ordinances, and such approval shall not imply that the provisions of any other ordinance have been met.
- (b) The city manager, or his duly authorized representative, meeting the certification requirements of the board, shall act on all plans submitted to him within forty-five (45) days from receipt thereof by either approving said plan, in writing, or by disapproving said plan, in writing, and giving the specific reason for its disapproval. When a plan submitted for approval pursuant to this chapter is found by the city manager, or his duly authorized representative to be inadequate, he shall specify such modifications, terms and conditions as will permit approval of the plan, and he shall communicate those requirements to the applicant as provided above. The plan shall be deemed approved and the person shall be authorized to proceed with the proposed activity if approval or disapproval is not given within forty-five (45) days.
- (c) Electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sediment control specifications annually with the board for review and written comment. The specifications shall apply to:
 - (1) Construction, installation or maintenance of electric, natural gas and telephone utility lines, and pipelines; and

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- (2) Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

Individual approval of separate projects within subdivisions (1) and (2) of this subsection is not necessary when board-approved specifications are followed. Projects not included in subdivisions (1) and (2) of this subsection shall comply with the requirements of the city erosion and sediment control program.

State agency projects are exempt from the provisions of this chapter except as provided for in the Code of Virginia, § 10.1-564, as amended.

In order to prevent further erosion, the city may require approval of a plan for any land identified in the local program as an erosion impact area.

(Ord. of 2-24-76, § 6; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

State law reference(s)—Similar provisions, Code of Virginia, Tit. 62.1, Ch. 3.1, Art. 2.4.

Sec. 14-31. Effect of approval of plan or compliance therewith as to liability to third persons for damages.

The approval of any soil erosion control and stormwater management plan under the provisions of this chapter, or compliance with the conditions of such plan, shall not relieve any person from responsibility for damage to other persons or property, and shall not impose any liability upon the city for damage to other persons or property.

(Ord. of 2-24-76, § 13; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

State law reference(s)—See Code of Virginia, Tit. 62.1, Ch. 3.1, Art. 2.4, which provides that the compliance with state law provisions similar to this chapter shall be prima facie evidence in certain actions for damages that all requirements of law have been met, etc.

Sec. 14-32. Modification of approved plan.

- (a) An approved plan may be changed by the city manager, or his duly authorized representative, meeting the certification requirements of the board, where inspection has revealed the inadequacy of the plan to accomplish the soil erosion control and stormwater management objectives of the plan, and appropriate modifications to correct the deficiencies of the plan are agreed to by the city manager, or his duly authorized representative, or where the person responsible for implementing the approved plan finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this chapter, are agreed to by the city manager, or his duly authorized representative, and the person responsible for implementing the plan.
- (b) The city manager, or his duly authorized representative, meeting the certification requirements of the board, shall have the authority to amend or alter the conditions of a soil erosion control and stormwater management plan at any time during the project, if control measures being practiced prove to be ineffective or because of changed circumstances. Such

changes shall be made to assist the permit holder in controlling costs where less expensive methods are available which will accomplish the desired result, or where previously approved methods do not accomplish the purpose of this chapter.

(Ord. of 2-24-76, §§ 6, 10; Ord. No. 95-2, 1-25-95; Ord. No. 2006-05, 6-27-2006)

State law reference(s)—Code of Virginia, Tit. 62.1, Ch. 3.1, Art. 2.4.

ARTICLE III. STORMWATER UTILITY

Sec. 14-33. Authority.

The city is authorized by Code of Virginia § 15.2-2114 to establish a utility to enact a system of service charges to support a local stormwater management program consistent with Article 2.3 (Code of Virginia § 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 or any other state or federal regulation governing stormwater management.

(Ord. of 5-26-2015)

Sec. 14-34. Purpose.

The city council finds that an adequate, sustainable source of revenue for stormwater management activities is necessary to protect the general health, safety, and welfare of residents of the city, and to meet requirements of the city's Virginia Pollution Discharge Elimination System (VPDES) municipal separate storm sewer system (MS4) permit and federal and state regulations to address identified water quality and quantity needs. The city council finds that property with higher amounts of impervious surface area contributes greater amounts of stormwater and pollutants to the storm sewer system and waters of the commonwealth and should carry a proportionate burden of the cost of such activities. Therefore, the city council determines it is in the best interest of the public to enact a stormwater utility fee that shall allocate program costs to all property owners based on the amount of impervious surface area.

(Ord. of 5-26-2015)

Sec. 14-35. Definitions.

The following definitions shall apply to this article unless the context clearly indicates otherwise:

Billing unit means two thousand one hundred (2,100) square feet of impervious surface area. All single-family homes will be billed one (1) billing unit rate.

Director means the director of public works or the director's authorized representative.

Developed property means real property that has been altered from its "natural" state by the addition of any improvements such as buildings, structures and other impervious surface areas. Improvements include, but are not limited to, buildings, patios, driveways, walkways, parking areas, and compacted gravel areas.

Impervious surface area means surface area that is compacted or covered with material that is highly resistant to or prevents infiltration by water, including, but not limited to, most conventionally surfaced streets (including gravel), roofs, sidewalks, parking lots, and other similar structures.

Municipal separate storm sewer system (MS4) means a conveyance or system of conveyances that is owned by a state, city, town, village, or other public entity that discharges to waters of the U.S.; designed or used to collect or convey stormwater (including storm drains, pipes, ditches, etc.); not a combined sewer; and not part of a publicly owned treatment works (sewage treatment plant).

Stormwater best management practice means activities, prohibition of practices, maintenance procedures and other management practices, including both structural and non-structural practices, to prevent or reduce pollution of surface waters and groundwater systems.

Stormwater management facility means a structural control measure that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release, or the velocity of flow. A stormwater management facility is a type of stormwater best management practice.

Unimproved parcel means any parcel that has less than five hundred (500) square feet of impervious surface area.

Utility fee means any permit or local program fees allowed by Commonwealth of Virginia State Code.

(Ord. of 5-26-2015)

Sec. 14-36. Stormwater utility fee.

- (a) A stormwater utility fee is hereby imposed on every parcel of real property in the city that appears on the real property assessment rolls as of July 1 of each year and contains greater than five hundred (500) square feet of impervious surface area.
- (b) When new properties or impervious surface areas are brought into the utility system, such as from new construction, fees will accrue or increase commencing on the next billing cycle as established in section 14-42(a).

The billing rate per billing unit to be used for calculating the stormwater utility fee shall be forty-eight dollars (\$48.00) per year. City council may modify the billing rate in the future.

All stormwater utility fees and other income from the fees shall be deposited into the stormwater enterprise fund. The funds deposited shall be used exclusively to provide services and facilities related to the stormwater management program pursuant to the provisions of the Code of Virginia § 15.2-2114.

The stormwater utility [fees] shall be in effect starting July 1, 2015.

The stormwater utility [fees] shall be under the administration of the director.

Consistent with Code of Virginia § 15.2-2114, the stormwater utility fee shall be waived in its entirety for the following:

- (1) A federal, state, or local government, or public entity that holds a permit to discharge stormwater from a municipal separate storm sewer system (MS4); except that the waiver of charges shall apply only to property covered by any such permit; and
- (2) Public roads and street rights-of-way that are owned and maintained by state or local agencies including property rights-of-way acquired through an acquisitions process.

(Ord. of 5-26-2015)

Sec. 14-38. Stormwater utility fee calculations.

Unless otherwise specified in this article, the annual stormwater utility fee for all property in the city shall be calculated in the following manner:

- (1) Determine the impervious surface area of each parcel of real property in square feet;
- (2) Divide the property's impervious surface area by the billing unit;
- (3) Round the resulting calculation to the nearest whole number to determine the billing units and multiply by the billing rate established to obtain the annual stormwater utility fee for the property.

The stormwater utility fee is applicable to condominium unit owners and to property held by a common interest community association, as defined in Code of Virginia § 55-528. The common area within the common interest community shall be evenly divided among the individually owned parcels, or as per an alternative methodology, as determined by the director, including but not limited to directly charging the association based on the methodology described in subsection (a) above.

(Ord. of 5-26-2015)

Sec. 14-39. Stormwater enterprise fund.

The stormwater fund is hereby established as a dedicated enterprise fund. The fund shall consist of revenue generated by the stormwater utility fee as well as any other deposits that may be made from time to time by the city council.

The stormwater fund shall be dedicated special revenue used only to pay for or recover costs for the following:

- (1) The acquisition, as permitted in Code of Virginia § 15.2-1800, of real and personal property, and interest therein, necessary to construct, operate, and maintain stormwater control facilities;
- (2) The cost of administration of the stormwater program;

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- (3) Planning, design, engineering, construction, and debt retirement for new facilities and enlargement or improvement of existing facilities, whether publicly or privately owned, that serve to control stormwater;
 - (4) Facility operation and maintenance;
 - (5) Monitoring of stormwater control devices and ambient water quality; and
 - (6) Other activities consistent with the state or federal regulations or permits governing stormwater management, including, but not limited to, public education, watershed planning, inspection and enforcement activities, and pollution prevention planning and implementation.

(Ord. of 5-26-2015)

Sec. 14-40. Billing, payment, and penalties.

The stormwater utility fee shall be divided into twelve (12) equal payments over a year period, where the owner and/or occupant of each parcel of real property shall be billed on a monthly basis. Such bills or statements shall be included on and payable with the parcel's sewer and refuse bill. Properties that do not receive a sewer and refuse bill will receive an annual bill via the city's real estate tax bill in conjunction with the city's standard real estate tax billing cycle. Any fee not paid in full by the respective due date(s) shall be considered delinquent.

All payments received shall be credited firstly towards stormwater, then to sewer, and then lastly towards refuse charges.

A delinquent Stormwater Utility Fee shall accrue interest at the legal rate provided in Code of Virginia § 6.2-301(A). Such interest shall be applied to late payments overdue for more than thirty (30) days, and shall be calculated for the period commencing on the first day such fee is first due, until the date the fee is paid in full.

Any delinquent stormwater utilities fee, together with all interest due, shall constitute a lien on the property on which assessed ranking on parity with liens for unpaid taxes and shall be collected in the same manner as provided for the collection of unpaid taxes.

(Ord. of 5-26-2015)

Sec. 14-41. Stormwater utility fee credits.

The director shall administer a system of credits in accordance with Code of Virginia § 15.2-2114.D that provide for partial waivers of charges to any person who installs, operates, and maintains an approved stormwater best management practice that achieves a permanent reduction in stormwater flow or pollutant loadings. The credit policy shall also, in accordance with Code of Virginia § 15.2-2114.E, provide for full or partial waivers of charges to public or private entities that implement or participate in strategies, techniques or programs that reduce stormwater flow or pollutant loadings, or decrease the cost of maintaining or operating the public storm sewer system and stormwater program.

The director shall develop written policies to implement the credit system, which shall include a requirement for participating property owners and/or occupants to provide maintenance verification to the city and for the owner to enter into a maintenance agreement with an inspection schedule for inspecting the best management practice(s) that justify the credit. No credit will be authorized until the city council approves written policies to implement the system of credits; a copy of the approved policies shall be on file with the public works department.

City council may modify the adopted system of credits to apply to future stormwater best management practices. Previously granted credits shall be grandfathered so that existing credits cannot be modified as long as the property owner continues to provide maintenance verification and meets the requirements of the maintenance agreement.

Except for new construction, applications for credits will be made by each year by December 31, with an approved credit to be effective on the following July 1. Applications received between January 1 and July 1 of each year will be reviewed and an approved credit to be effective on the following July 1.

(Ord. of 5-26-2015)

Sec. 14-42. Petitions for adjustments.

Any property owner may request an adjustment of the stormwater utility fee by submitting a request in writing to the director within thirty (30) days after the date the bill is mailed or issued to the property owner. Grounds for adjustment of the stormwater utility fee are limited to the following:

- (1) An error was made regarding the square footage of the impervious surface area of the property;
- (2) The property is exempt under the provisions of section 14-36(g);
- (3) There is a mathematical error in calculating the stormwater utility fee;
- (4) The identification of the property owner invoiced is in error; or
- (5) An approved credit was incorrectly applied.

The property owner shall complete a petition for adjustment form available on the city's website or supplied by the director.

If the applicant alleges an error in the amount of the impervious surface area, the applicant shall provide a plot, plan, or map showing all impervious surface areas within the property's boundaries, including buildings, patios, driveways, walkways, parking areas, compacted gravel areas, and any other separate impervious surface area structures. The applicant shall label dimensions of impervious surface area areas and showing the areas believed to be incorrect.

The requirement for a plan view of the property's impervious surface area are required in subsection (b) above may be waived by the director, if at the sole discretion of the director the error is obvious and is the result of technical error or oversight by the city. In such case, the city shall be responsible for recalculating the impervious surface area of the property.

The director shall make a determination within forty-five (45) days of receipt of a complete submittal for the request for adjustment. In the event that the director finds that the information provided in support of the request for an adjustment is deficient or incomplete, the director shall offer the owner sixty (60) days to supply the missing information. The forty-five (45) day time for a decision will begin at such time as the requested information is provided if the information requested is not provided to the director within sixty (60) days of the original request, the petition will be deemed withdrawn.

Any owner and/or occupant requesting an adjustment of the stormwater utility fee who is aggrieved by a decision of the director may file an appeal with the Hopewell Circuit Court if allowed by state law.

(Ord. of 5-26-2015)

Secs. 14-43—14-50. Reserved.

ARTICLE IV. STORMWATER MANAGEMENT²

Sec. 14-51. Purpose and authority. (§ 61.1-44.15:27 Code of Virginia)

- (a) The purpose of this article is to ensure the general health, safety, and welfare of the citizens of the City of Hopewell and protect the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from a land-disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- (b) This ordinance is authorized by § 62.1-44.15:27 of the Code of Virginia
(Ord. No. 2014-08 , § 1-1, 5-13-14)

Sec. 14-52. Definitions. (9VAC25-875-20)

In addition to the definitions set forth in 9VAC25-875-20 of the Virginia Erosion and Stormwater Management Regulations, as amended, which are expressly adopted and incorporated herein by reference, the following words and terms used in article III of this chapter have the following meanings unless otherwise specified herein. Where definitions differ, those incorporated herein shall have precedence:

Administrator means the VESMP authority including the City of Hopewell staff person or department responsible for administering the VESMP on behalf of the locality, or the duly

²Editor's note(s)—An Ord. of 5-26-2015 , added a new article III. The existing article III was renumbered as article IV at the editor's discretion.

authorized agent of the administrator. Until amended by ordinance, the administrator for the City of Hopewell is the department of public works.

Applicant means any person submitting a soil erosion control and stormwater management plan to a VESMP authority for approval in order to obtain authorization to commence a land-disturbing activity.

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

Chesapeake Bay Preservation Act land-disturbing activity means a land-disturbing activity including clearing, grading, or excavation that results in a land disturbance equal or greater than two thousand five hundred (2,500) square feet and less than one (1) acre in all areas of jurisdictions designated as subject to the regulations adopted pursuant to the Chesapeake Bay Preservation Act, Code of Virginia, § 62.1-44.15:75 et seq.

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

Control measure means any best management practice or stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

Clean Water Act or *CWA* means the Clean Water Act and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this ordinance, it includes state program requirements.

Department means the Department of Environmental Equality

Development means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures or the clearing of land for non-agricultural or non-silvicultural purposes. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

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

Land disturbance or *land-disturbing activity* means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation except that the term shall not include those exemptions specified in section 14-53(c) of this article.

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

Minor modification means an amendment to an existing general permit before its expiration not requiring extensive review and evaluation including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor

general permit modification or amendment does not substantially alter general permit conditions, substantially increase or decrease the amount of surface water impacts, increase the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

Operator means the owner or operator of any facility or activity subject to the VESMA and this ordinance. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets the either of the following two criteria:

1. The person has director operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or
2. The person has day-to-day operation 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., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions.)

Permit or VESMP authority permit means a VPDES permit issued by the department pursuant to §62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity.

Permittee means the person to whom the VESMP authority permit is issued.

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

Regulations means the Virginia Erosion and Stormwater Management Program (VESMP) Permit Regulations, 9VAC25-875, as amended.

Site means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

State means the Commonwealth of Virginia.

State board means the state water control board.

State permit means an approval to conduct a land-disturbing activity issued by the state board in the form of a state stormwater individual permit or coverage issued under a state general permit or an approval issued by the state board for stormwater discharges from an MS4. Under these state permits, the commonwealth imposes and enforces requirements pursuant to the federal Clean Water Act and regulations, the Virginia Erosion and Stormwater Management Act and the Regulations.

State water control law means Code of Virginia, chapter 3.1 (§ 62.1-44.2 et seq.) of title 62.1.

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

Stormwater means precipitation that is discharged across the land surface or through conveyances to one (1) or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage.

Stormwater management plan means a document containing material describing methods for complying with the requirements of the VESMP.

Stormwater pollution prevention plan or *SWPPP* means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under the VESMP 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.

Subdivision means the same as defined in section 2-53 of the City of Hopewell's Subdivision Ordinance.

Total maximum daily load or *TMDL* means the sum of the individual waste load allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

Virginia Erosion and 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 BMP Clearinghouse means 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 Program or "*VESMP*" means a program established by the VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

Virginia Erosion and Stormwater Management Program Authority or *VESMP Authority* means a locality that is approved by the department to operate the VESMP. For the purposes of this article, the City of Hopewell is the VESMP Authority

(Ord. No. 2014-08 , § 1-2, 5-13-14)

Sec. 14-53. Stormwater permit requirement; exemptions.

- (a) Except as provided herein, no person may engage in any land-disturbing activity until a VESMP authority permit has been issued by the administrator in accordance with the provisions of this article.
- (b) A Chesapeake Bay Preservation Act Land-Disturbing Activity shall be subject to a soil erosion control and stormwater management plan consistent with the requirements of the Virginia Erosion and Stormwater Management Act, the technical criteria and administrative requirements for land-disturbing activities outlined in section 14-59, and the requirements for control measures long-term maintenance outlined under Section 14-60, and provisions for inspections pursuant to 9VAC875-140 of the Regulations. Chesapeake Bay Preservation Act Land-Disturbing activities do not require completion of a registration statement or require coverage under the general permit. Exceptions may be requested pursuant to 9VAC25-875-170.
- (c) Notwithstanding any other provisions of this article, the following activities are exempt, unless otherwise required by federal law:
 - (1) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Code of Virginia, title 45.1;
 - (2) 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 state 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 Code of Virginia, chapter 11 (§ 10.1-1100 et seq.) of title 10.1 or is converted to bona fide agricultural or improved pasture use as described in Code of Virginia, subsection B of § 10.1-1163 of article 9 of chapter 11 of title 10.1;
 - (3) 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;
 - (4) Land-disturbing activities that disturb less than one (1) acre of land area except for land-disturbing activity exceeding an area of two thousand five hundred (2,500) square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC 25-830) adopted pursuant to the provisions of the Chesapeake Bay Preservation Act (Code of Virginia, § 62.1-44.15:67 et seq.) or activities that are part of a larger common plan of development or sale that is one (1) acre or greater of disturbance;
 - (5) Discharges to a sanitary sewer or a combined sewer system;

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- (6) Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
 - (7) 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; and
 - (8) 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 administrator shall be advised of the disturbance within seven days of commencing the land-disturbing activity and compliance with the administrative requirements of subsection (a) is required within 30 days of commencing the land-disturbing activity.

(Ord. No. 2014-08 , § 1-3, 5-13-14)

Sec. 14-54. Stormwater management program established; submission and approval of plans; prohibitions.

- (a) Pursuant to Code of Virginia, § 62.1-44.15:27 the City of Hopewell hereby establishes a Virginia Erosion and Stormwater Management Program for land-disturbing activities and adopts the applicable regulations that specify standards and specifications for VESMPs promulgated by the state board for the purposes set out in section 14-51 of this article. The city council of the City of Hopewell hereby designates the department of public works as the administrator of the Virginia Erosion and Stormwater Management Program.
- (b) No VESMP authority permit shall be issued by the administrator, until the following items have been submitted to and approved by the administrator as prescribed herein:
 - (1) A permit application that includes a general permit registration statement, where applicable;
 - (2) A soil erosion control and stormwater management plan approved in accordance with the City of Hopewell's Erosion Control and Stormwater Management Ordinance, chapter 14 of the Hopewell City Code; and
 - (3) A stormwater management plan that meets the requirements of section 14-56 of this article, or an executed agreement in lieu of a erosion control and stormwater management plan, which shall be a contract on a form approved by the administrator between the City of Hopewell and the person who is applying for a permit that specifies methods that will be implemented to comply with the requirements of a VESMP for the construction of a single-family residence.
- (c) No VESMP authority permit shall be issued until evidence of general permit coverage is obtained.

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- (d) No VESMP authority permit shall be issued until the fees required to be paid pursuant to section 14-64, are received, and if so required by the administrator, the land disturbance permit performance bond surety in the form of a letter of credit, corporate check, certified check or cash, has been posted by the applicant, per the city article II, bonds and agreements guidelines, and pursuant to section 14-65 of this article has been submitted.
 - (e) No VESMP authority permit shall be issued unless and until the permit application and attendant materials and supporting documentation demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
 - (f) No grading, building or other local permit shall be issued for a property unless a VESMP authority permit has been issued by the administrator.
- (Ord. No. 2014-08 , § 1-4, 5-13-14)

Sec. 14-55. Stormwater pollution prevention plan; contents of plans.

- (a) The stormwater pollution prevention plan (SWPPP) shall include the content specified by section 9VAC25-875-500 and must also comply with the requirements and general information set forth in 40 CFR 540.21, section II [stormwater pollution prevention plan] of the general permit.
- (b) The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
- (c) The SWPPP must be maintained by the operator at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site. Operators shall make the SWPPP available for public review in accordance with section II of the general permit, either electronically or in hard copy.

(Ord. No. 2014-08 , § 1-5, 5-13-14)

Sec. 14-56. Stormwater management plan; contents of plan.

- (a) The stormwater management plan, required in section 14-54 of this article, must apply the stormwater management technical criteria set forth in section 14-59 of this article to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments shall not be considered separate land-disturbing activities. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff, and include the following information:
 - (1) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the predevelopment and post development drainage areas;

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- (2) Contact information including the name, address, and telephone number of the owner and the tax reference number and parcel number of the property or properties affected;
 - (3) A narrative describing the current site conditions and final site conditions, and which includes the following:
 - a. Existing and finished topography with a maximum of two-foot contour intervals with spot elevations where necessary. Plans depicting any off-site drainage area shall show off-site topography with a maximum of five-foot contour intervals.
 - b. Storm drainage systems, and all natural, artificial and man-made watercourses.
 - c. Storm sewers systems, to include the location, sizes, and inverts of the facilities and proposed extensions in and near the project.
 - d. Plans for collecting and depositing stormwater, (in accordance with the latest Virginia Stormwater Management Handbook) and method of treatment of natural, artificial and man-made watercourses, including a delineation of proposed limits of floodplains, if any, as created or enlarged by the proposed development.
 - (4) A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
 - (5) Information on the proposed stormwater management facilities, including:
 - a. The type of facilities;
 - b. Location, including geographic coordinates;
 - c. Acres treated; and
 - d. The surface waters or karst features, if present, into which the facility will discharge.
 - (6) Hydrologic and hydraulic computations, including runoff characteristics;
 - (7) Documentation and calculations verifying compliance with the water quality and quantity requirements of section 14-59 of this article.
 - (8) A map or maps of the site that depicts the topography of the site and includes:
 - a. All contributing drainage areas;
 - b. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - c. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
 - d. Current land use including existing structures, roads, and locations of known utilities and easements;
 - e. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;

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- f. The limits of clearing and grading, and the proposed drainage patterns on the site;
 - 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 planned locations of utilities, roads, and easements.
- (b) If an operator intends to meet the water quality and/or quantity requirements set forth in section 14-59 of this article through the use of off-site compliance options, where applicable, then a Bill of Sale from the off-site provider must be included. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity except as otherwise allowed by Code of Virginia, § 62.1-44.15:35.
- (c) Elements of the stormwater management plans that include activities regulated under Code of Virginia, chapter 4 (§ 54.1-400 et seq.) of title 54.1 shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia pursuant to Code of Virginia, article 1 (§ 54.1-400 et seq.) of chapter 4 of title 54.1.
- (d) A construction record drawing for permanent stormwater management facilities shall be submitted to the administrator. The construction record drawing shall be appropriately sealed and signed by a professional registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan. However, the administrator may elect not to require construction record drawings for stormwater management facilities for which maintenance agreements are not required pursuant to section 14-60(b).
- (Ord. No. 2014-08 , § 1-6, 5-13-14)

Sec. 14-57. Pollution prevention plan; contents of plans.

- (a) Pollution prevention plan, required by 9VAC25875-520, shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention as specified in 40 CFR 450.21(d) to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
- (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
 - (3) Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

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- (b) The pollution prevention plan shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450.21(e):
- (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.
- (c) Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls in accordance with 40 CFR 450.21 (c).
- (Ord. No. 2014-08 , § 1-7, 5-13-14)

Section 14-58. Erosion and sediment control plan; Contents of plan

A. An erosion and sediment control plan, which is a component of the ESM plan, shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control 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 in 9VAC25-875-560. The erosion and sediment control plan may include:

1. Appropriate maps;
2. An appropriate soil and water plan inventory and management information with needed interpretations; and
3. A record of decisions contributing to conservation treatment.

B. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to the Office of Stormwater Management & Engineering.

C. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control or an "Agreement in Lieu of a Plan" signed by the property owner.

D. Land-disturbing activity of less than 2,500 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA if the total land-disturbing activity in the development is equal to or greater than 2,500 square feet.

Sec. 14-59. Review of stormwater management plan.

- (a) The administrator or any duly authorized agent of the administrator shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:
- (1) The administrator shall determine the completeness of a plan in accordance with section 14-56 of this article, and shall notify the applicant, in writing, of such determination, within fifteen (15) calendar days of receipt. If the plan is deemed to be incomplete, the above written notification shall contain the reasons the plan is deemed incomplete.
 - (2) The administrator shall have an additional sixty (60) calendar days from the date of the communication of completeness to review the plan, except that if a determination of completeness is not made within the time prescribed in subdivision (1), then plan shall be deemed complete and the administrator shall have sixty (60) calendar days from the date of submission to review the plan.
 - (3) The administrator shall review any plan that has been previously disapproved, within forty-five (45) calendar days of the date of resubmission.
 - (4) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the person responsible for the land-disturbing activity or his designated agent. If the plan is not approved, the reasons for not approving the plan shall be provided in writing. Approval or denial shall be based on the plan's compliance with the requirements of this article.
 - (5) If a plan meeting all requirements of this article is submitted and no action is taken within the time provided above in subdivision (2) for review, the plan shall be deemed approved.
- (b) Approved stormwater plans may be modified as follows:
- (1) Modifications to an approved stormwater management plan shall be allowed only after review and written approval by the administrator. The administrator shall have sixty (60) calendar days to respond in writing either approving or disapproving such request.
 - (2) The administrator may require that an approved stormwater management plan be amended, within a time prescribed by the administrator, to address any deficiencies noted during inspection.
- (c) The administrator shall require the submission of a construction record drawing for permanent stormwater management facilities. The administrator may elect not to require construction record drawings for stormwater management facilities for which recorded maintenance agreements are not required pursuant to section 14-60(b).

(Ord. No. 2014-08 , § 1-8, 5-13-14)

Sec. 14-61. Technical criteria for regulated land-disturbing activities.

- (a) To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, the City of Hopewell hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include Part V of 9VAC25-875 expressly to include 9VAC25-875-580 [water quality design criteria requirements]; 9VAC25-875-590 [water quality compliance]; 9VAC25-875-600 [water quantity]; 9VAC25-875-610 [offsite compliance options]; 9VAC25-875-620 [design storms and hydrologic methods]; 9VAC25-875-630 [stormwater harvesting]; 9VAC25-875-640 [linear development project]; and 9VAC25-875-650 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities, including all Chesapeake Bay Preservation Act land-disturbing activities, regulated by this article, except as expressly set forth in subsections (b), (d) and (e) below.
- (b) Land-disturbing activities that obtain an initial permit or commence land disturbance prior to July 1, 2014, shall be conducted in accordance with the technical criteria of Article 4 (9VAC25-875-670 et seq.) of this part. Such projects shall remain subject to the technical criteria of Article 4 of this part for two additional permit cycles. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.
- (c) Land-disturbing activities that obtain general permit coverage on or after July 1, 2014, shall be conducted in accordance with the technical criteria set forth in 9VAC25-875 of the Virginia Erosion and Stormwater Management Regulation.
- (d) Any land-disturbing activity shall be considered grandfathered and shall be subject to Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation provided:
 - (1) A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, a preliminary or final site plan, or any document determined by the City of Hopewell to be equivalent thereto (i) was approved by a the City of Hopewell prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-876-670, (iii) will comply with technical criteria of Article 4 of Part V of 8VAC25-875, and (iv) has not been subsequently modified or amended in a manner resulting in an increase in the amount of phosphorous 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.
- (e) The City of Hopewell, state, and federal projects shall be considered grandfathered by the VESMP authority and shall be subject to the technical criteria of Article 4 of Part V of 8VAC25-875 provided:
 - (1) There has been an obligation of local, 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;

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- (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.
 - (f) Land-disturbing activities grandfathered under subsections (d) and (e) of this section shall remain subject to the technical criteria of Article 4 of the Part V of 9VAC25-875 the VESMP regulation for one (1) additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical requirements adopted by the board.
 - (g) In cases where governmental bonding or public debt financing has been issued for a project prior to July 1, 2012, such project shall be subject to the technical requirements of Article 4 of Part V of 8VAC25-875.
 - (h) Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.
- (Ord. No. 2014-08 , § 1-9, 5-13-14)

Sec. 14-62. Long-term maintenance of permanent stormwater facilities.

- (a) The administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by the administrator and shall at a minimum:
 - (1) Be submitted to the administrator for review and approval prior to the approval of the stormwater management plan;
 - (2) Be stated to run with the land;
 - (3) Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
 - (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the administrator; and
 - (5) Be enforceable by all appropriate governmental parties.
- (b) At the discretion of the administrator, such recorded instruments need not be required for permanent 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.
- (c) If a recorded instrument is not required pursuant to subsection 14-60(b), 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 method 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 or any duly authorized agent of the administrator.

(Ord. No. 2014-08 , § 1-10, 5-13-14)

Sec. 14-63. Monitoring and inspections.

- (a) The administrator or any duly authorized agent of the administrator shall inspect the land-disturbing activity during construction for:
 - (1) Compliance with the approved erosion and sediment control plan;
 - (2) Compliance with the approved stormwater management plan or agreement in lieu;
 - (3) Development, updating, and implementation of a pollution prevention plan; and
 - (4) Development and implementation of any additional control measures necessary to address a TMDL.
- (b) The administrator or any duly authorized agent of the administrator may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.
- (c) In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement or instrument, the administrator may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity when a permittee, after proper notice, has failed to take acceptable action within the time specified.
- (d) Pursuant to Code of Virginia, § 62.1-44.15:40, the administrator may require every VESMP authority permit applicant or permittee, or any such person subject to VESMP authority permit requirements under this article, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article. [NOTE: Please see Code of Virginia, § 62.1-44.15:40 regarding protection of specified confidential information.]
- (e) Post-construction inspections of stormwater management facilities required by the provisions of this article shall be conducted by the administrator or any duly authorized agent of the administrator pursuant to the City of Hopewell's adopted and state board approved inspection program, and shall occur, at minimum, at least once every five (5) years except as may otherwise be provided for in section 14-60.

(Ord. No. 2014-08 , § 1-11, 5-13-14)

Sec. 14-64. Appeals.

Any permit applicant or permittee, or person subject to article requirements, aggrieved by a permit or enforcement decision of the administrator may file an appeal with the Hopewell Circuit Court if allowed by state law.

(Ord. No. 2014-08 , § 1-12, 5-13-14)

Sec. 14-65. Enforcement.

- (a) If the administrator determines that there is a failure to comply with the VESMP authority permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: Verbal warnings and inspection reports, notices of corrective action, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.
- (1) The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with subsection (b) or the permit may be revoked by the administrator.
- (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the administrator may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with the provisions of section 14-5(d) of the Hopewell City Code. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the administrator. However, if the administrator finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with subsection 14-64(c).

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- (b) In addition to any other remedy provided by this article, if the administrator determines there is a failure to comply with the provisions of this article, the administrator may initiate such informal and/or formal administrative enforcement procedures in a manner authorized by this article, the City of Hopewell Code of Ordinances, and any applicable City of Hopewell policies. Such measures include, but are not limited to:
- (1) With the consent of any person subject to a VESMP authority permit who has violated or failed, neglected, or refused to comply with any Ordinance or permit issued by the City of Hopewell; who has failed to comply with any decision of the administrator; or who has violated the terms of any order issued by the administrator, a consent special order issued pursuant to Code of Virginia, § 62.1-44.15:48. A consent special order shall order the person to comply with the terms of the order, as well as any provision of this article or decision by the administrator. Such special orders shall be issued in accordance with City of Hopewell procedures, including procedures for public notice and comment, unless issued as an emergency order consistent with (a) above. Consent special orders may include a civil charge for violations of the requirements listed above instead of civil penalties that could be imposed under this section. The City of Hopewell may proceed directly to use any other enforcement measures at its discretion.
 - (2) Special orders and emergency special orders issued pursuant to Code of Virginia, § 62.1-44.15:25.
 - (3) Any person violating or failing, neglecting or refusing to obey any rule, regulation, ordinance, order, or permit condition issued by the administrator or any other part of this article may be compelled in a proceeding instituted in any appropriate court by the City of Hopewell to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
 - (4) Any person who violates any provision of this article or who fails, neglects, or refuses to comply with any order of the administrator or the City of Hopewell, shall be subject to a civil penalty not to exceed thirty-two thousand five hundred dollars (\$32,500.00) for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense. The City of Hopewell may issue a summons for the collection of the civil penalty and the action may be prosecuted in the appropriate court.

Violations for which a penalty may be imposed under this subsection shall include but not be limited to the following:

- a. No state permit registration;
- b. No SWPPP;
- c. Incomplete SWPPP;
- d. SWPPP not available for review;
- e. No approved erosion and sediment control plan;
- f. Failure to install stormwater BMPs or erosion and sediment controls;

- g. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- h. Operational deficiencies;
- i. Failure to conduct required inspections;
- j. Incomplete, improper, or missed inspections; and
- k. Discharges not in compliance with the requirements of 9VAC25-880-70 of the general permit.

(5) Notwithstanding any other civil or equitable remedy provided by this section or by law, any person who willfully or negligently violates any provision of this article, any order of the administrator, 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 twelve (12) months or a fine of not less than two thousand five hundred dollars (\$2,500.00) nor more than thirty-two thousand five hundred dollars (\$32,500.00), or both.

(Ord. No. 2014-08 , § 1-13, 5-13-14)

Sec. 14-66. Fees.

(a) Fees to cover costs associated with implementation of a VESMP related to land-disturbing activities and issuance of general permit coverage and VESMP authority permits shall be imposed in accordance with Table 1. When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees ("total fee to be paid by applicant" column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance. An applicant shall pay the fees provided below for initial issuance of general permit coverage and VESMP authority permit coverage. No more than fifty (50) percent of the total fee to be paid by the applicant shall be due at the time that a stormwater management plan or an initial stormwater management plan is submitted to the City of Hopewell for review. The balance shall be paid prior to the issuance of coverage under the general permit. When a site or sites are 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 the following table.

Fee Type	Total fee to be paid by applicant (includes both VESMP authority and department portions where applicable)	Department portion of "total fee to be paid by applicant" (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to general permit coverage; sites within designated areas	\$290.00	\$ 0.00

of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)		
General/stormwater management—Small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than 1 acre and, if required by state law, detached single-family residences within or without a common plan of development or sale with land disturbance acreage equal to or greater than one acre and less than five acres)	\$290.00	\$81.00 (except for detached single-family residences in which case, if required by law, \$0.00 is paid to the department)
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, not to include detached single-family residences within or without a common plan of development or sale)	\$2,700.00	\$756.00
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)	\$3,400.00	\$952.00
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]	\$4,500.00	\$1,260.00
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)	\$6,100.00	\$1,708.00
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)	\$9,600.00	\$2,688.00

*If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.

- (b) Fees for the modification or transfer of registration statements from the general permit issued by the state board shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by the City of Hopewell, such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage in Table 1. Fees specified in this subsection go to the City of Hopewell, Department of Public Works funding accounts for VESMP permits administration and CIP and operations maintenance activities related to city-wide drainage improvements.

Table 2: Fees for the modification or transfer of registration statements for the general permit for discharges of stormwater from construction activities.

Type of Permit	Fee Amount
General/stormwater management—Small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$ 20.00
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 and less than 5 acres)	200.00
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)	250.00
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)	300.00
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)	450.00
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)	700.00

- (c) 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 general permit, these fees shall apply until the permit coverage is terminated. Fees Specified in this subsection go to the City of Hopewell, Department of Public Works funding accounts for VESMP permits administration and CIP and operations maintenance activities related to city-wide drainage improvements.

Table 3: Permit maintenance fees.

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$ 50.00
General/stormwater management—Small construction activity/land clearing (areas within common plans of development or sale with land disturbance acreage less than 1 acre)	50.00
General/stormwater management—Small construction activity/land clearing (sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	400.00
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)	500.00
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)	650.00
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)	900.00
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 100 acres)	1,400.00

General permit coverage maintenance fees shall be paid annually to the City of Hopewell, by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a notice of termination is effective.

- (d) The fees set forth in subsections (a) through (c) above, shall apply to:
- (1) All persons seeking coverage under the general permit.
 - (2) All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.

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- (3) Persons whose coverage under the general permit has been revoked shall apply to the department for an individual permit for discharges of stormwater from construction activities.
 - (4) Permit and permit coverage maintenance fees outlined under section 14-64(c) may apply to each general permit holder.
 - (e) No general permit application fees will be assessed to:
 - (1) Permittees who request minor modifications to general permits as defined in section 14-52 of this article. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the administrator shall not be exempt pursuant to this section.
 - (2) Permittees whose general permits are modified or amended at the initiative of the department, excluding errors in the registration statement identified by the administrator or errors related to the acreage of the site.
 - (f) All incomplete payments will be deemed as nonpayment, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in Code of Virginia, § 58.1-15 and is calculated on a monthly basis at the applicable periodic rate. A ten (10) percent late payment fee shall be charged to any delinquent (over ninety (90) days past due) account. The City of Hopewell shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

(Ord. No. 2014-08 , § 1-14, 5-13-14)

Sec. 14-67. Performance bond. (Code of Virginia, § 62.1-44.15:34)

Prior to issuance of any permit, the applicant may be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the City of Hopewell, to ensure that measures could be taken by the City of Hopewell at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land-disturbing activity. If the City of Hopewell takes such action upon such failure by the applicant, the City of Hopewell 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, if any. Within sixty (60) days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

(Ord. No. 2014-08 , § 1-15, 5-13-14)

VOTING AYE:

VOTING NAY:

ABSTAINING:

ABSENT:

DONE this _____ day of _____.

Mayor Johnny Partin, Ward 3

Witness this signature and seal

ATTEST:

Brittani Williams, City Clerk



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

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Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Local Virginia Erosion and Sediment Control Program Administrators
All Local Virginia Stormwater Management Program Administrators

From: Megan Mayfield, Director, Division of Water Permitting

Date: December 27, 2023

Subject: Virginia Erosion and Stormwater Management Program and Virginia Erosion and Sediment Control Program Model Ordinances

At the June 22, 2023 State Water Control Board (Board) meeting, the Board approved and adopted the Virginia Erosion and Stormwater Management (VESM) Regulation (9VAC25-875) and approved the repeal of the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870). The VESM Regulation and repeal of the other regulations, will be effective July 1, 2024. The Final VESM Regulation was published on December 4, 2023 in the *Virginia Register of Regulations*, Volume 40 Issue 8. Below is a link to the final regulation:

[Vol. 40 Iss. 8 \(Final\) 9VAC25-840, Erosion And Sediment Control Regulations December 04, 2023 \(virginia.gov\)](#)

Also on July 1, 2024, Chapters 68 and 758 of the 2016 Acts of Assembly become effective. Those Acts, referred to as the "Consolidation Bill," combine stormwater management and erosion and sediment control requirements under the Virginia Erosion and Stormwater Management Act (VESMA), §§ 62.1-44.15:24 through 62.1-44.15:50 of the Code of Virginia. Requirements for a Virginia Erosion and Sediment Control Program (VESCP) are in the Erosion and Sediment Control Law (ESCL) for Localities Not Administering a Virginia Erosion and Stormwater Management Program, §§ 62.1-44.15:51 through 62.1-44.15:66 of the Code of Virginia. With the Consolidation Bill and VESM Regulation becoming effective on July 1, 2024, local ordinances for the administration of a Virginia Erosion and Sediment Control Program

(VESCP) or Virginia Stormwater Management Program (VSMP) will need to be updated to reflect both the new law and regulations.

Consistent with § 62.1-44.15:27 of the Code of Virginia, the Virginia Department of Environmental Quality (DEQ) has prepared a Virginia Erosion and Stormwater Management Program (VESMP) Model Ordinance and a Virginia Erosion and Sediment Control Program (VESCP) Model Ordinance to assist in the development of the appropriate local ordinance for your locality. The model ordinances incorporate requirements in the VESMA, ESCL for Localities Not Administering a Virginia Erosion and Stormwater Management Program, and VESM Regulation. Copies of each are attached for your use.

The DEQ is not required to review and/or approve the local ordinances, or associated documents, manuals, etc., prior to adoption. Please note that a locality may, by local ordinance adopted pursuant to § 62.1-44.15:33 or 62.1-44.15:65 of the Code of Virginia, establish more stringent local requirements. If a VESMP authority elects to adopt more stringent ordinances, the authority shall submit a letter report to the DEQ when more stringent stormwater management ordinances or more stringent requirements are authorized by such stormwater management ordinances. If a VESCP authority elects to adopt more stringent ordinances, the authority shall report to the DEQ when more stringent erosion and sediment control ordinances are determined to be necessary.

Please feel free to contact Rebecca Rochet if you have any questions or need additional assistance (Rebecca.Rochet@deq.virginia.gov or 804-801-2950).

ATTACHMENT A

VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM

MODEL ORDINANCE

Pursuant to §62.1-44.15:27 of the Code of Virginia, this ordinance is adopted as part of an initiative to integrate the [locality] stormwater management requirements with the [locality] erosion and sediment control, flood insurance, [and] flood plain management[, and Chesapeake Bay Preservation Act] requirements into a consolidated erosion and stormwater management program. The erosion and stormwater management program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities for land-disturbing activities into a more convenient and efficient manner for both the [locality] and those responsible for compliance with these programs.

Section 1.1. TITLE, PURPOSE, AND AUTHORITY.

- A. This ordinance shall be known as the "Erosion and Stormwater Management Ordinance of [locality / VESMP authority].
- B. The purpose of this ordinance is to ensure the general health, safety, and welfare of the citizens of [locality], protect the quality and quantity of state waters from the potential harm of unmanaged stormwater and soil erosion, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- C. This ordinance is authorized by § 62.1-44.15:27 of the Code of Virginia.

Section 1.2. DEFINITIONS.

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Agreement in lieu of a plan" means a contract between the [VESMP authority] and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the VESMA and this ordinance for the construction of a (i) single-family detached 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 five percent; such contract may be executed by the [VESMP authority] in lieu of a soil erosion control and stormwater management plan.

"Applicant" means person submitting a soil erosion control and stormwater management plan to a VESMP authority for approval in order to obtain authorization to commence a land-disturbing activity.

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

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.

"Board" means the State Water Control Board.

"Causeway" means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

"Channel" means a natural stream or manmade waterway.

"Chesapeake Bay Preservation Act" means Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Chesapeake Bay Preservation Area" means any land designated by a local government pursuant to Part III (9VAC25-830-70 et seq.) of the Chesapeake Bay Preservation Area Designation and Management Regulations and § 62.1-44.15:74 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area as defined in the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830).

"Clean Water Act" or "CWA" means 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.

"Cofferdam" means a watertight temporary structure in a river, lake, etc., for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, etc., may be constructed.

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

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

"Construction activity" means any clearing, grading, or excavation associated with large construction activity or associated with small construction activity.

"Control measure" means any BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"CWA and regulations" means the Clean Water Act and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this ordinance, it includes state program requirements.

"Dam" means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock or other debris.

"Denuded" means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

"Department" means the Virginia Department of Environmental Quality.

"Development" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for nonagricultural or nonsilvicultural purposes. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

"Dike" means an earthen embankment constructed to confine or control water, especially one built along the banks of a river to prevent overflow of lowlands; levee.

"Discharge" when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

1. Any addition of any pollutant or combination of pollutants to state waters from any point source; or

2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

"Diversion" means a channel with a supporting ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

"Dormant" means denuded land that is not actively being brought to a desired grade or condition.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Energy dissipator" means a nonerodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

"Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

"Erosion and sediment control plan" means 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" means an area of land that is not associated with a current land-disturbing activity but is 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.

"ESC" means erosion and sediment control.

"ESM plan" means a soil erosion control and stormwater management plan, commonly referred to as the erosion control and stormwater management plan.

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400 of the Code of Virginia, and any related impervious services including roads, driveways, and parking areas.

"Flood fringe" means 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" means 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" means 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" means 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" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes the floodway designated by the Federal Emergency Management Agency.

"Flume" means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

"General permit" means a permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Incorporated place" means a city, town, township, or village that is incorporated under the Code of Virginia.

"Inspection" means an on-site review of the project's compliance with any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the VESMA and applicable regulations.

"Karst area" means 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" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"Land disturbance" or "land-disturbing activity" means 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" means an approval allowing a land-disturbing activity to commence issued by the VESMP authority after the requirements of § 62.1-44.15:34 of the Code of Virginia have been met.

"Large construction activity" means construction activity including clearing, grading, and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Live watercourse" means a definite channel with bed and banks within which concentrated water flows continuously.

"Locality" means [county, city, or town].

"Localized flooding" means 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" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Manmade" means constructed by man.

"Minimize" means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.

"Minor modification" means modifications and amendments not requiring extensive review and evaluation including 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 permit modification or amendment does not substantially alter 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" means 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" means 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.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

"Nonpoint source pollution" means pollution such as sediment, nitrogen, phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater.

"Operator" means the owner or operator of any facility or activity subject to the VESMA and this ordinance. 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., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

"Owner" means the same as that term is defined in § 62.1-44.3 of the Code of Virginia. For a regulated land-disturbing activity that does not require a permit, "owner" also means 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" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" means a VPDES permit issued by the department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity.

"Permittee" means the person to whom the permit is issued.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Point source" means any discernible, confined, and discrete conveyance including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant discharge" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this ordinance.

"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 VESMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the commencement of land-disturbing activity shall establish predevelopment conditions.

"Prior developed lands" means 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" means 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.

"Responsible land disturber" or "RLD" means 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 or ESM 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, ESM plan, or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

"Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

"Runoff characteristics" includes maximum velocity, peak flow rate, volume, and flow duration.

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

"Sediment basin" means a temporary impoundment built to retain sediment and debris with a controlled stormwater release structure.

"Sediment trap" means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

"Sheet flow" (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

"Shoreline erosion control project" means an erosion control project approved by local wetlands boards, the Virginia Marine Resources Commission, the department, or the United States Army Corps of Engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in Title 28.2 of the Code of Virginia.

"Site" means the land or water area where any facility or land-disturbing activity is physically located or conducted, including adjacent land used or preserved in connection with the facility or land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

"Site hydrology" means 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.

"Slope drain" means tubing or conduit made of nonerosive material extending from the top to the bottom of a cut or fill slope with an energy dissipator at the outlet end.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The department may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved "total maximum daily load" (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the department that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis. As of the start date in Table 1 of 9VAC25-31-1020, all certifications submitted in support of the waiver shall be submitted electronically by the owner or operator to the department in compliance with this subdivision and 40 CFR Part 3 (including, in all cases, 40 CFR Part 3 Subpart D), 9VAC25-875-940, and Part XI (9VAC25-31-950 et seq.) of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation. Part XI of 9VAC25-31 is not intended to undo existing requirements for

electronic reporting. Prior to this date, and independent of Part XI of 9VAC25-31, permittees may be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by either the department or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil erosion control and stormwater management plan," commonly referred to as the erosion control and stormwater management plan, or "ESM plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to the VESMA. The ESM plan may consist of aspects of the erosion and sediment control plan and the stormwater management plan as each is described in this ordinance.

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

"State" means the Commonwealth of Virginia.

"State application" or "application" means the standard form or forms, including any additions, revisions, or modifications to the forms, approved by the administrator and the department for applying for a permit.

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

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

"Storm sewer inlet" means a structure through which stormwater is introduced into an underground conveyance system.

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

"Stormwater conveyance system" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;
2. "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or

3. "Restored stormwater conveyance system" means 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 detention" means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

"Stormwater management facility" means 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 plan" means a document containing material describing methods for complying with the requirements of the VESMP.

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under the VESMP 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.

"Subdivision" means the same as defined in § 15.2-2201 of the Code of Virginia.

"Surface waters" means:

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 the EPA.

"SWM" means stormwater management.

"Temporary vehicular stream crossing" means a temporary nonerodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through nonerodible material.

"Ten-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedance probability with a 10% chance of being equaled or exceeded in any given year.

"Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations for point sources, load allocations (LAs) 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" means an incorporated town.

"Two-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50% chance of being equaled or exceeded in any given year.

"Virginia Erosion and Stormwater Management Act" or "VESMA" means 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 Erosion and Stormwater Management Program" or "VESMP" means a program established by the VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means [locality or the locality's designated entity] approved by the department to operate the VESMP.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the department pursuant to the State Water Control Law

authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

"Virginia Stormwater BMP Clearinghouse" means 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 Stormwater Management Handbook" means 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.

"Wasteload allocation" or "wasteload" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. Wasteload allocations are a type of water quality-based effluent limitation.

"Water quality technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means 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 water drains may be considered the single outlet for the watershed.

"Wetlands" means those areas that are inundated or saturated by surface water 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.

Section 2.1. VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM ESTABLISHED

Pursuant to § 62.1-44.15:27 of the Code of Virginia, [Locality] hereby establishes a Virginia Erosion and Stormwater Management Program for land-disturbing activities and adopts the Virginia Erosion and Stormwater Management Regulation that specify standards and specifications for VESMPs promulgated by the State Water Control Board for the purposes set out in Section 1.1 of this Ordinance. The [local governing body] hereby designates the [local official tasked with implementing the ordinance] as the Administrator of the Virginia Erosion and Stormwater Management Program established by this Ordinance.

Section 2.2. REGULATED LAND DISTURBING ACTIVITIES

A. Land-disturbing activities that meet one of the criteria below are regulated as follows:

1. [Land-disturbing activity that disturbs [10,000] [smaller area specified by the locality] square feet or more, is less than one acre, not in an area of a locality designated as a Chesapeake Bay Preservation Area, and not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation (Regulation).]

[COOSE APPLICABLE REQUIREMENT FOR No. 1 OR BOTH, AS APPLICABLE]

1. [Land-disturbing activity that disturbs [2,500] [smaller area specified by the locality] square feet or more, is less than one acre, and in an area of a locality designated as a Chesapeake Bay Preservation Area is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.]
2. Land-disturbing activity that disturbs less than one acre, but is part of a larger common plan of development or sale that disturbs one acre or more, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.
3. Land-disturbing activity that disturbs one acre or more is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.

B. Land-disturbing activities exempt per 9VAC25-875-90 are not required to comply with the requirements of the VESMA unless otherwise required by federal law.

Section 3.1. REVIEW AND APPROVAL OF PLANS (§ 62.1-44.15:34 of the Code of Virginia); PROHIBITIONS.

- A. [VESMP authority] shall review and approve soil erosion control and stormwater management (ESM) plans, except for activities not required to comply with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA), pursuant to § 62.1-44.15:34 of the Code of Virginia. Activities not required to comply with VESMA are defined in 9VAC25-875-90.

- B. A person shall not conduct any land-disturbing activity in [Locality] until:
1. An application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, has been submitted to [VESMP authority];
 2. The name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 of the Code of Virginia is submitted to [VESMP authority]. **[Optional] [except that such certificate shall not be required where an agreement in lieu of a plan for construction of a single-family detached residential structure is provided; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30 of the Code of Virginia.]** Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided by the VESMA; and
 3. **[VESMP authority]** has issued its land-disturbance approval. In addition, as a prerequisite to engaging in an approved land-disturbing activity, the name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 of the Code of Virginia shall be submitted to [VESMP authority]. **[Optional] [[VESMP authority] may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan for construction of a single-family detached residential structure; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30 of the Code of Virginia.]** Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided the Act.
- C. **[VESMP authority]** may require changes to an approved ESM plan in the following cases:
1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; 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.

- D. In order to prevent further erosion, [VESMP authority] may require approval of an erosion and sediment control plan and a stormwater management plan for any land it identifies as an erosion impact area. (§ 62.1-44.15:34)
- E. Prior to issuance of any land-disturbance approval, [VESMP authority] may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement it finds acceptable, to ensure that it can take measures at the applicant's expense should he fail, after proper notice, within the time specified to comply with the conditions it imposes as a result of his land-disturbing activity. If [VESMP authority] takes such action upon such failure by the applicant, it may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the completion of [VESMP authority's] conditions, such bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.
- F. [VESMP authority] may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.
- G. No exception to, or waiver of, post-development nonpoint nutrient runoff compliance requirements shall be granted unless offsite options have been considered and found not available in accordance with subsection D of § 62.1-44.15:35 of the Code of Virginia.
- H. [VESMP authority] is authorized to cooperate and enter into agreements with any federal or state agency in connection with the requirements for land-disturbing activities in accordance with § 62.1-44.15:50 of the Code of Virginia.

Section 3.2. REVIEW OF A SOIL EROSION CONTROL AND STORMWATER MANAGEMENT PLAN (ESM Plan).

- A. [VESMP authority] shall approve or disapprove an ESM plan according to the following:
1. [VESMP authority] shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the to be complete.
 2. [VESMP authority] shall issue either land-disturbance approval or denial and provide written rationale for any denial.

3. Prior to issuing a land-disturbance approval, [VESMP authority] shall be required to obtain evidence of permit coverage when such coverage is required.
 4. [VESMP authority] also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.
- B. [Optional for localities choosing to coordinate ESM plan review with the department]** Pursuant to subdivision B 2 of § 62.1-44.15:27 of the Code of Virginia, [Locality] has elected to coordinate the plan review component of its program with the department through an executed agreement. Review and approval or disapproval of ESM plans shall be conducted according to the following:
1. [VESMP authority] shall determine the completeness of any application within 15 days after receipt, and shall:
 - i. Act on any application within 60 days after it has been determined to be complete;
 - ii. Forward a soil erosion control and stormwater management plan to the department for review within five days of receipt. If the plan is incomplete, the department will return the plan to [VESMP Authority] immediately and the application process shall start over. If the plan is complete, the department will review it for compliance with the water quality and water quantity technical criteria and provide its recommendation to [VESMP authority]; and
 - iii. Either (i) issue the land-disturbance approval or (ii) issue a denial and provide a written rationale for the denial. In no case shall [VESMP authority] have more than 60 days for its decision on an application after it has been determined to be complete. Prior to issuing a land-disturbance approval, [VESMP authority] shall be required to obtain evidence of permit coverage when such coverage is required.
 2. [VESMP authority] also shall forward to the department any resubmittal of a previously disapproved application within five days after receipt, and [VESMP authority] shall determine whether the plan is complete within 15 days of its receipt of the plan. The department will review the plan for compliance with the water quality and water quantity technical criteria and provide its recommendation to [VESMP authority], and [VESMP authority] shall act on the resubmitted application within 45 days after receipt.

Section 3.3. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

- A. Except as provided herein, no person may engage in any land-disturbing activity until a permit has been issued by [VESMP authority] in accordance with the provisions of this ordinance and the Regulation.

- B. Notwithstanding any other provisions of this ordinance, the following activities are not required to comply with the requirements of this ordinance unless otherwise required by federal law:
1. Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;
 2. Installation, maintenance, or repair of any individual service connection;
 3. Installation, maintenance, or repair of any underground utility line 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;
 4. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia;
 6. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including 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; or as additionally set forth by the Board in regulations. 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 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;
 7. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
 8. 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 the VESMA and the regulations adopted pursuant thereto;
 9. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

10. 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, [VESMP authority] shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsection A is required within 30 days of commencing the land-disturbing activity; and
 11. Discharges to a sanitary sewer or a combined sewer system; that are not from a land-disturbing activity.
- C. Notwithstanding this ordinance and in accordance with the Virginia Erosion and Stormwater Management Act, Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:
1. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
 2. 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; and
 3. Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

Section 4.1. STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS. (9VAC25-875-500)

- A. A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection D of this section.
- B. A soil erosion control and stormwater management (ESM) plan consistent with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA) and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by [VESMP authority] in accordance with the VESMA, this ordinance, and attendant regulations.
- C. A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to minimize pollutants

in stormwater discharges from the construction site must be developed before land disturbance commences.

- D. In addition to the requirements of subsections A through C of this section, if a specific wasteload allocation for a pollutant has been established in an approved TMDL and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the wasteload allocation.
- E. The stormwater pollution prevention plan must address the following requirements as specified in 40 CFR 450.21, to the extent otherwise required by state law or regulations and any applicable requirements of a state permit:
1. Control stormwater volume and velocity within the site to minimize soil erosion;
 2. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
 3. Minimize the amount of soil exposed during construction activity;
 4. Minimize the disturbance of steep slopes;
 5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
 6. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;
 7. Minimize soil compaction and, unless infeasible, preserve topsoil;
 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the VESMP authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the VESMP authority; and
 9. Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

- F. The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP's location must be posted near the main entrance at the construction site.

Section 4.2. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN. (9VAC25-875-510)

- A. A stormwater management plan shall be developed and submitted to [VESMP authority]. The stormwater management plan shall be implemented as approved or modified by [VESMP authority] and shall be developed in accordance with the following:
1. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria set forth in this ordinance and Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments, including those developed under subsequent owners, shall not be considered separate land-disturbing activities.
 2. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- B. A complete stormwater management plan shall include the following elements:
1. 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 predevelopment and post-development drainage areas;
 2. Contact information including the name, address, telephone number, and email address of the owner and the tax reference number and parcel number of the property or properties affected;
 3. A narrative that includes a description of current site conditions and final site conditions or if allowed by the VESMP authority, the information provided and documented during the review process that addresses the current and final site conditions;
 4. A general description of the proposed stormwater management facilities and the mechanism through which the facilities will be operated and maintained after construction is complete;
 5. Information on the proposed stormwater management facilities, including (i) detailed narrative on the conversion to a long-term stormwater management facility if the

- facility was used as a temporary ESC measure; (ii) the type of facilities; (iii) location, including geographic coordinates; (iv) acres treated; and (v) the surface waters or karst features into which the facility will discharge;
6. Hydrologic and hydraulic computations, including runoff characteristics;
 7. Documentation and calculations verifying compliance with the water quality and quantity requirements of these regulations;
 8. A map of the site that depicts the topography of the site and includes:
 - i. All contributing drainage areas;
 - ii. Existing streams, ponds, culverts, ditches, wetlands, other water bodies, and floodplains;
 - iii. Soil types, geologic formations if karst features are present in the area, forest cover, and other vegetative areas;
 - iv. Current land use including existing structures, roads, and locations of known utilities and easements;
 - v. Sufficient information on adjoining parcels to assess the impacts of stormwater from the site on these parcels;
 - vi. The limits of clearing and grading, and the proposed drainage patterns on the site;
 - vii. Proposed buildings, roads, parking areas, utilities, and stormwater management facilities; and
 - viii. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses, including planned locations of utilities, roads, and easements;
 9. If an operator intends to meet the requirements established in 9VAC25-875-580 or 9VAC25-875-600 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and
 10. If **[VESMP authority]** requires payment of a fee with the stormwater management plan submission, the fee and the required fee form in accordance with Section 5-8 of this ordinance must have been submitted.
- C. All final plan elements, specifications, or calculations of the stormwater management plans whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of

Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence.

Section 4.3. POLLUTION PREVENTION PLAN; CONTENTS OF PLANS. (9VAC25-875-520)

- A. A plan for implementing pollution prevention measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21(d) to minimize the discharge of pollutants. At a minimum, such measures must be designed, installed, implemented, and maintained to:
1. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. Wash waters must be treated in a sediment basin or alternative control that provides equivalent or better treatment prior to discharge;
 2. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste, and other materials present on the site to precipitation and to stormwater; and
 3. Minimize the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.
- B. The pollution prevention plan shall include effective best management practices to prohibit the following discharges in accordance with 40 CFR 450.21(e):
1. Wastewater from washout of concrete, unless managed by an appropriate control;
 2. Wastewater from washout and cleanout of stucco, paint, form release oils, curing compounds, and other construction materials;
 3. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 4. Soaps or solvents used in vehicle and equipment washing.
- C. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, are prohibited unless managed by appropriate controls in accordance with 40 CFR 450.21(c).

Section 4.4. EROSION AND SEDIMENT CONTROL PLAN; CONTENTS OF PLANS (9VAC25-875-550)

- A. An erosion and sediment control plan, which is a component of the ESM plan, shall be filed for a development and the buildings constructed within, regardless of the phasing of

construction. The erosion and sediment control 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 in 9VAC25-875-560. The erosion and sediment control plan may include:

1. Appropriate maps;
 2. An appropriate soil and water plan inventory and management information with needed interpretations; and
 3. A record of decisions contributing to conservation treatment.
- B. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to [VESMP authority]. **[Note: The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan in accordance with § 62.1-44.15:34 or § 62.1-44.15:55 of the Code of Virginia.]**
- C. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan **[Optional] [or an "Agreement in Lieu of a Plan" signed by the property owner]**.
- D. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.

Section 5.1. TECHNICAL CRITERIA FOR REGULATED LAND DISTURBING ACTIVITIES.

- A. To protect the quality and quantity of state water from the potential harm of unmanaged stormwater runoff resulting from land-disturbing activities, [Locality] hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part V of 9VAC25-875 expressly to include 9VAC25-875-580 [water quality design criteria requirements]; 9VAC25-875-590 [water quality compliance]; 9VAC25-875-600 [water quantity]; 9VAC25-875-610 [offsite compliance options]; 9VAC25-875-620 [design storms and hydrologic methods]; 9VAC25-875-630 [stormwater harvesting]; 9VAC25-875-640 [linear development project]; and, 9VAC25-875-650 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this ordinance, except as expressly set forth in Subsection B of this Section.
- B. Any land-disturbing activity shall be considered grandfathered and shall be subject to Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation 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 [locality] to be equivalent thereto (i) was approved by [locality] prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the technical criteria of Article 4 of Part V of 9VAC25-875, 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 permit has not been issued prior to July 1, 2014; and
 3. Land disturbance did not commence prior to July 1, 2014.
- C. Locality, state, and federal projects shall be considered grandfathered by [VESMP authority] and shall be subject to the technical criteria of Article 4 of Part V of 9VAC25-875 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. A permit has not been issued prior to July 1, 2014; and
 3. Land disturbance did not commence prior to July 1, 2014.
- D. Land disturbing activities grandfathered under subsections A and B of this section shall remain subject to the technical criteria of Article 4 of Part V of 9VAC25-875 for one additional permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.
- E. 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 of Part V of 9VAC25-875.
- F. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

Section 5.2. LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES

- A. The operator shall submit a construction record drawing for permanent stormwater management facilities to [VESMP authority] in accordance with 9VAC25-875-535. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Code of Virginia, stating that to the best of their 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.

- B. **[VESMP authority]** shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of runoff. Such requirements shall be set forth in an instrument recorded in the local land records prior to general permit termination or earlier as required by **[VESMP authority]** and shall at a minimum:
1. Be submitted to **[VESMP authority]** for review and approval prior to the approval of the stormwater management plan;
 2. Be stated to run with the land;
 3. Provide for all necessary access to the property for purposes of maintenance and regulatory inspections;
 4. Provide for inspections and maintenance and the submission of inspection and maintenance reports to **[VESMP authority]**; and
 5. Be enforceable by all appropriate governmental parties.
- C. **[Optional]** At the discretion of **[VESMP authority]**, 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 **[VESMP authority]** that future maintenance for those facilities will be addressed through an enforceable mechanism at the discretion of **[VESMP authority]**.
- D. **[Optional]** If a recorded instrument is not required pursuant to Subsection C., **[VESMP authority]** 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 method 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 **[VESMP authority]** or its duly authorized agent.

Section 5.3. MONITORING AND INSPECTIONS.

- A. **[VESMP authority]** shall inspect the land-disturbing activity during construction for:
1. Compliance with the approved erosion and sediment control plan;
 2. Compliance with the approved stormwater management plan;
 3. Development, updating, and implementation of a pollution prevention plan; and

4. Development and implementation of any additional control measures necessary to address a TMDL.
- B. **[VESMP authority]** shall conduct periodic inspections on all projects during construction. **[VESMP authority]** shall either:
1. Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or
 2. Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:
 - i. Approved by the department prior to implementation;
 - ii. Established in writing;
 - iii. Based on a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and
 - iv. Documented by inspection records.
- C. **[VESMP authority]** shall establish an inspection program that ensures that permanent stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities. Inspection programs shall:
1. Be approved by the department;
 2. Ensure that each stormwater management facility is inspected by **[VESMP authority]**, or its designee, not to include the owner, except as provided in subsections D and E of this section, at least once every five years; and
 3. Be documented by records.
- D. **[VESMP authority]** may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in subsection B 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; 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.

- E. If a recorded instrument is not required pursuant to 9VAC25-875-130, **[VESMP authority]** 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 method 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 **[VESMP authority]**.

Section 5.4. HEARINGS

- A. Any permit applicant or permittee, or person subject to the requirements of this ordinance, aggrieved by any action of the **[Locality]** taken without a formal hearing, or by inaction of the **[Locality]**, may demand in writing a formal hearing by the **[Local governing or appeals body]** causing such grievance, provided a petition requesting such hearing is filed with the **[locally designated administrator]** within 30 days after notice of such action is given by the Administrator.
- B. The hearings held under this Section shall be conducted by the **[local governing or appeals body]** at a regular or special meeting of the **[local governing or appeals body]**, or by at least one member of the **[local governing or appeals body]** designated by the **[local governing or appeals body]** to conduct such hearings on behalf of the **[local governing or appeals body]** at any other time and place authorized by the **[local governing or appeals body]**.
- C. A verbatim record of the proceedings of such hearings shall be taken and filed with the **[local governing or appeals body]**. Depositions may be taken and read as in actions at law.
- D. The **[local governing or appeals body]** or its designated member, as the case may be, shall have power to issue subpoenas and subpoenas duces tecum, and at the request of any party shall issue such subpoenas. The failure of a witness without legal excuse to appear or to testify or to produce documents shall be acted upon by the local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

Section 5.5. APPEALS.

[NOTE: The locality shall adopt an appeals procedure. This procedure should be appropriate for the erosion and stormwater management ordinance provisions and be consistent with the limitations within § 10.1-603.13 of Chapter 6 of Title 10.1 of the Code of Virginia.]

Section 5.6. RIGHT OF ENTRY.

- A. [VESMP authority] or any duly authorized agent thereof may, at reasonable times and under reasonable circumstances, enter any establishment or upon any property, public or private, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this ordinance.
- B. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, [VESMP authority] may also enter any establishment or upon any property, public or private, for the purpose of initiating or maintaining appropriate actions that are required by conditions imposed by [VESMP authority] on a land-disturbing activity when an owner, after proper notice, has failed to take acceptable action within the time specified.

Section 5.7. ENFORCEMENT

- A. If the [locally designated administrator] determines that there is a failure to comply with the permit conditions or determines there is an unauthorized discharge, notice shall be served upon the permittee or person responsible for carrying out the permit conditions by any of the following: verbal warnings and inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by registered or certified mail to the address specified in the permit application or by delivery at the site of the development activities to the agent or employee supervising such activities.
 1. The notice shall specify the measures needed to comply with the permit conditions and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, a stop work order may be issued in accordance with Subsection 2 or the permit may be revoked by the Administrator.
 2. If a permittee fails to comply with a notice issued in accordance with this Section within the time specified, the [locally designated administrator] may issue an order requiring the owner, permittee, person responsible for carrying out an approved plan, or the person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the permit has ceased, or an approved plan and required permits are obtained, and specified corrective measures have been completed.

Such orders shall be issued in accordance with [refer to local procedures]. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the [locally designated administrator] finds that any such violation is grossly affecting or presents an imminent and substantial danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth or otherwise substantially impacting water quality, it may issue, without advance notice

or hearing, an emergency order directing such person to cease immediately all land-disturbing activities on the site and shall provide an opportunity for a hearing, after reasonable notice as to the time and place thereof, to such person, to affirm, modify, amend, or cancel such emergency order. If a person who has been issued an order is not complying with the terms thereof, the **[locally designated administrator]** may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 5.7.C.

- B. In addition to any other remedy provided by this Ordinance, if the **[locally designated administrator]** or his designee determines that there is a failure to comply with the provisions of this Ordinance, they may initiate such informal and/or formal administrative enforcement procedures in a manner that is consistent with [reference local public facilities/engineering manual and/or specific policy].
- C. 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 **[locally designated administrator]** may be compelled in a proceeding instituted in **[insert appropriate local court]** by the **[Locality]** to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- D. 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 **[locally designated administrator]** may be compelled in a proceeding instituted in **[insert appropriate local court]** by the **[Locality]** to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
1. Violations for which a penalty may be imposed under this Subsection shall include but not be limited to the following:
- i. No state permit registration;
 - ii. No SWPPP;
 - iii. Incomplete SWPPP;
 - iv. SWPPP not available for review;
 - v. No approved erosion and sediment control plan;
 - vi. Failure to install stormwater BMPs or erosion and sediment controls;
 - vii. Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
 - viii. Operational deficiencies;

- ix. Failure to conduct required inspections;
 - x. Incomplete, improper, or missed inspections; and
 - xi. Discharges not in compliance with the requirements of 9VAC25-880-70.
2. The **[locally designated administrator]** may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.
 3. In imposing a civil penalty pursuant to this Subsection, the court may consider the degree of harm caused by the violation and also the economic benefit to the violator from noncompliance.
 4. Any civil penalties assessed by a court as a result of a summons issued by the **[Locality]** shall be paid into the treasury of the **[Locality]** to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality and abating environmental pollution therein in such manner as the court may, by order, direct.
- E. Notwithstanding any other civil or equitable remedy provided by this ordinance or by law, any person who willfully or negligently violates any provision of this ordinance, any order of the Administrator, 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 or a fine of not less than \$2,500 nor more than \$32,500, or both.

Section 5.8. FEES [INCLUSION OF FEES IN THE ORDINANCE IS OPTIONAL]

- A. Fees to cover costs associated with implementation of a VESMP related to land disturbing activities and issuance of general permit coverage and VESMP authority permits shall be imposed in accordance with Table 1. **[NOTE: Such fee attributes include the costs associated with plan review, VESMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with land-disturbing activities as well as state program oversight costs.]** When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance

Fee type	Total fee to be paid by applicant (includes both VESMP authority and department portions where	Department portion of "total fee to be paid by applicant" (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$290	\$81
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	\$756
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	\$952
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	\$1,260
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	\$1,708
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	\$2,688

* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.

- B. Fees for the modification or transfer of registration statements from the general permit issued by the department shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by [Locality], such reviews shall be subject to the fees set out in Table 2. The fee assessed shall be based on the total disturbed acreage of the site. In addition to the general permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference in the initial permit fee paid and the 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 General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
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 and less than 5 acres)	\$200
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
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
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
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

- C. 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 general permit, these fees shall apply until the permit coverage is terminated. [NOTE: Fees specified in this Subsection go to the locality.]

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
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
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
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
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 100 acres)	\$1,400

General permit coverage maintenance fees shall be paid annually to the [Locality], by the anniversary date of general permit coverage. No permit will be reissued or automatically continued without payment of the required fee. General permit coverage maintenance fees shall be applied until a Notice of Termination is effective.

D. The fees set forth in Subsections A through C of this section, shall apply to:

1. All persons seeking coverage under the general permit.
2. All permittees who request modifications to or transfers of their existing registration statement for coverage under a general permit.
3. Persons whose coverage under the general permit has been revoked shall apply to the department for an Individual Permit for Discharges of Stormwater From Construction Activities.

- E. Permit and permit coverage maintenance fees outlined under Section 5.8 may apply to each general permit holder.
- F. No general permit application fees will be assessed to:
 - 1. Permittees who request minor modifications to general permits as defined in Section 1.2 of this ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the **[locally designated administrator]** shall not be exempt pursuant to this Section.
 - 2. Permittees whose general permits are modified or amended at the initiative of the department, excluding errors in the registration statement identified by the **[locally designated administrator]** or errors related to the acreage of the site.
- G. All incomplete payments will be deemed as nonpayments, and the applicant shall be notified of any incomplete payments. Interest may be charged for late payments at the underpayment rate set forth in §58.1-15 of the Code of Virginia and is calculated on a monthly basis at the applicable periodic rate. A 10% late payment fee shall be charged to any delinquent (over 90 days past due) account. The **[Locality]** shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

Section 5.9. Performance Bond (4VAC50-60-104.D and Code § 603.8(A)) [Optional]

- A. Prior to issuance of any permit, the applicant shall be required to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the **[Locality]** Attorney, to ensure that measures could be taken by the **[Locality]** at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the permit conditions as a result of his land disturbing activity. If the **[Locality]** takes such action upon such failure by the applicant, the **[Locality]** 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, if any. Within 60 days of the completion of the requirements of the permit conditions, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.

ATTACHMENT B

VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM

MODEL ORDINANCE

This model ordinance is intended for any locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program (VESMP) pursuant to subdivision B 3 of § 62.1-44.15:27 of the Code of Virginia. These localities are required to administer a Virginia Erosion and Sediment Control Program (VESCP) for land disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq. of the Code of Virginia). For such a land-disturbing activity in a Chesapeake Bay Preservation Area, the [VESCP authority] also shall adopt requirements set forth in the Virginia Erosion and Stormwater Management Act and attendant regulations as required to regulate those activities in accordance with §§ 62.1-44.15:28 and 62.1-44.15:34 of the Code of Virginia.

Section 1.1. TITLE, PURPOSE, AND AUTHORITY

- A. This ordinance shall be known as the ‘Erosion and Sediment Control Ordinance of [locality].’ The purpose of this ordinance is to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources of the [locality] by establishing requirements for the effective control of soil erosion, sediment deposition and non-agricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.
- B. This ordinance is authorized by § 62.1-44.15:54 of the Code of Virginia.

Section 1.2. DEFINITIONS

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Agreement in lieu of a plan" means a contract between the [VESCP authority] and the owner that specifies conservation measures that must be implemented to comply with the requirements of this ordinance for the construction of a (i) single-family detached 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 five percent; this contract may be executed by the [VESCP authority] in lieu of formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land-disturbing activities to commence.

"Board" means the State Water Control Board.

"Certified inspector for ESC" means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of project inspection or (ii) is enrolled in the department's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer for ESC" means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of plan review, (ii) is enrolled in the department's training program for plan review and successfully completes such program within one year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator for ESC" means an employee or agent of the VESCP authority who holds a certification from the department in the classification of program administrator or (ii) is enrolled in the department's training program for program administration and successfully completes such program within one year after enrollment.

[INCLUDE ONLY IF THE LOCALITY IS IN A CBPA] "Chesapeake Bay Preservation Act" means Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

[INCLUDE ONLY IF THE LOCALITY IS IN A CBPA] "Chesapeake Bay Preservation Area" means any land designated by a local government pursuant to Part III (9VAC25-830-70 et seq.) of the Chesapeake Bay Preservation Area Designation and Management Regulations and § 62.1-44.15:74 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area as defined in the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830).

"City" means the City of [locality]. **(If applicable.)**

"Clearing" means any activity which removes the vegetative ground cover including, root mat removal or topsoil removal. **(Optional or local definition may be used.)**

"County" means the County of [locality]. **(If applicable.)**

"Department" means the Virginia Department of Environmental Quality.

"District" or "Soil and Water Conservation District" refers to the [name of district] Soil and Water Conservation District. **(If applicable.)**

"Erosion and sediment control plan" or "plan" means 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" means an area of land that is not associated with a current land-disturbing activity but is 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.] **(Include shoreline reference, if applicable.)**

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Excavating" means any digging, scooping or other methods of removing earth materials. **(Optional or local definition.)**

"Filling" means any depositing or stockpiling of earth materials. **(Optional or local definition.)**

"Grading" means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions. **(Optional or local definition.)**

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Land-disturbing permit or approval" means a permit or an approval allowing a land-disturbing activity to commence issued by **[VESCP authority]** after the requirements of § 62.1-44.15:55 of the Code of Virginia have been met. **(Optional or local definition.)**

"Natural channel design concepts" means 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.

"Owner" means the same as provided in § 62.1-44.3 of the Code of Virginia. For a land-disturbing activity that is regulated under Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia and this ordinance, "owner" also includes 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" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permittee" means the person to whom the permit is issued.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Responsible Land Disturber" or "RLD" means 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 the Virginia Erosion

and Stormwater Management Regulation (9VAC25-875) as a prerequisite for engaging in land disturbance. The RLD must be designated on the erosion and sediment control plan or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

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

"Single-family detached residential structure" means a noncommercial dwelling that is occupied exclusively by one family.

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

"Transporting" means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs. **(Optional or local definition.)**

"Town" means the incorporated town of [locality]. **(If applicable.)**

"Virginia Erosion and Sediment Control Program" or "VЕСP" means a program approved by the department that is established by a VЕСP authority for the effective control of soil erosion, sediment deposition, and nonagricultural runoff associated with a land-disturbing activity to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of the Erosion and Sediment Control Law (ESCL).

"Virginia Erosion and Sediment Control Program authority" or "VЕСP authority," for purposes of this ordinance means [locality] that has been approved by the department to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1, the State Water Control Law, of Title 62.1 of the Code of Virginia.

"VЕСP plan-approving authority" means the [local department or position title in locality] responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

"VPDES Permit" means a General VPDES (Virginia Pollutant Discharge Elimination System) Permit for Discharges of Stormwater from Construction Activities, 9VAC25-880, issued by the department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity. **(Optional or local definition.)**

Section 1.3. LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

Pursuant to § 62.1-44.15:54 of the Code of Virginia, the [VЕСP authority] hereby establishes a Virginia Erosion and Sediment Control Program (VЕСP) and adopts the regulations promulgated by the Board (for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources) **[The following additional text is optional at the discretion of the VЕСP authority:**

and the Virginian Stormwater Management Handbook]. In accordance with § 62.1-44.15:52 of the Code of Virginia, any plan approved prior to July 1, 2014 that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

- A. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified 9VAC25-875-600, unless such land-disturbing activities are in accordance with the grandfathering provisions of 9VAC25-875-490.
- B. 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 for ESC. Inspections of land-disturbing activities shall be conducted by a certified inspector for ESC. The Erosion and Sediment Control Program of [locality] shall contain a certified program administrator for ESC, a certified plan reviewer for ESC, and a certified inspector for ESC (who may be the same person.)
- C. The [locality] hereby designates [department or position title] as the VЕСP plan-approving authority.
- D. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the [department or position title].

Section 1.4. REGULATED LAND-DISTURBING ACTIVITIES

- A. Land-disturbing activities that meet one of the criteria below are regulated as follows:
 1. [Land-disturbing activity that disturbs [10,000] [smaller area specified by the locality] square feet or more, is less than one acre, not in an area of a locality designated as a Chesapeake Bay Preservation Area, and not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation (Regulation).]
 2. Land-disturbing activity that disturbs [2,500] [smaller area specified by the locality] square feet or more, is less than one acre, and in an area of a locality designated as a Chesapeake Bay Preservation Area is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.]

Section 1.5. ACTIVITIES NOT REQUIRED TO COMPLY WITH THE ESCL

- A. Notwithstanding any other provisions of the Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program (ESCL), the following activities are not required to comply with the ESCL unless otherwise required by federal law:
1. Disturbance of a land area of less than 10,000 [smaller area specified by the locality] square feet in size [USE ONLY IF LOCALITY HAS DESIGNATED CBPA -or less than 2,500 [smaller area specified by the locality] square feet in an area designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq. of the Code of Virginia)];
 2. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;
 3. Installation, maintenance, or repair of any individual service connection;
 4. Installation, maintenance, or repair of any underground utility line 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;
 5. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 6. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia;
 7. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including 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; or as additionally set forth by the board in regulations. 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;
 8. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

9. 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 Virginia 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 the ESCL and the regulations adopted pursuant thereto;
10. 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 VESCP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsections 1.6, 1.7 and 1.8 of this ordinance are required within 30 days of commencing the land-disturbing activity;
11. Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity; and
12. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

Section 1.6. SUBMISSION AND APPROVAL OF PLANS; CONTENTS OF PLANS

- A. Except as provided herein, no person may engage in any regulated land-disturbing activity until he or she has submitted to the **[VESCP authority]** an erosion and sediment control plan for the regulated land-disturbing activity and such plan has been approved by the **[VESCP authority]**. No approval to begin a land disturbing activity will be issued unless evidence of VPDES permit coverage is obtained where it is required.
[OPTIONAL – USE IF LOCALITY ACCEPTS AGREEMENT IN LIEU Where the land-disturbing activity results from the construction of a (i) single-family detached 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 five percent, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP plan-approving authority.]
- B. The standards contained within the "Virginia Erosion and Stormwater Management Regulation (9VAC25-875)" [optional to include: the Virginia Stormwater Management Handbook, as amended] and **[any local handbook or publication]** are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The VESCP plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the Virginia Erosion and Stormwater Management Regulation shall take precedence.
- C. The VESCP plan-approving authority shall review erosion and sediment control plans submitted to it and grant written approval within 60 days of the receipt of the plan if it

determines that the plan meets the requirements of the Erosion and Sediment Control Law for Localities not Administering a Virginia Erosion and Stormwater Management Program and 9VAC25-875, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this ordinance. In addition, as a prerequisite to engaging in the land-disturbing activities shown on the approved plan, the person responsible for carrying out the plan shall provide the name of the responsible land disturber to the VЕСP authority, as required by 9VAC25-875-300 and 9VAC25-875-550, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber, 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 this ordinance.

[The following additional text is optional at the discretion of the VЕСP authority: However, the VЕСP plan-approving authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan for construction of a single-family detached residential structure. If a violation occurs during the land-disturbing activity associated with the construction of the single-family detached residential structure, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of the responsible land disturber to the VЕСP authority. Failure to provide the name of the responsible land disturber shall be a violation of this ordinance. End of optional text.]

- D. 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 within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- E. The [VЕСP authority] shall act on any erosion and sediment control plan that has been previously disapproved within 45 days after the plan has been revised, resubmitted for approval, and deemed adequate.
- F. The [VЕСP authority] may require changes to an approved plan when:
 - 1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - 2. The person responsible for carrying out the plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this ordinance, are agreed to by the VЕСP plan-approving authority and the person responsible for carrying out the plans.
- G. Variances: The VЕСP plan-approving authority may waive or modify any of the standards that are deemed to be inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the VESCP plan-approving authority 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 VESCP plan-approving authority. The VESCP plan-approving authority shall respond in writing either approving or disapproving such a request. If the VESCP plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
 3. The [VESCP authority] 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.
- H. In order to prevent further erosion, the [locality] may require approval of a plan for any land identified in the local program as an erosion impact area.
- I. When a land-disturbing activity will be required of a contractor performing construction work pursuant to a construction contract, the preparation, submission, and approval of an erosion and sediment control plan shall be the responsibility of the owner.
- J. As an alternative to submitting soil erosion control and stormwater management plans pursuant to § 62.1-44.15:34 of the Code of Virginia to the [VESCP authority], any person engaging in more than one jurisdiction in the creation and operation of a wetland mitigation or stream restoration bank that has been approved and is operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) a wetlands mitigation or stream restoration bank, pursuant to a mitigation banking instrument signed by the Department, the Marine Resources Commission, or the U.S. Army Corps of Engineers, or (ii) a stream restoration project for purposes of reducing nutrients or sediment entering state waters may submit standards and specifications for Department approval that describe how land-disturbing activities shall be conducted.

Section 1.7. EROSION AND SEDIMENT CONTROL PLAN; CONTENTS OF PLANS

- A. An erosion and sediment control plan shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall be consistent with the criteria, techniques, and methods in 9VAC25-875-560. The erosion and sediment control 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 in 9VAC25-875-560. The erosion and sediment control plan may include:

1. Appropriate maps;
 2. An appropriate soil and water plan inventory and management information with needed interpretations; and
 3. A record of decisions contributing to conservation treatment.
- B. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to the VESMP authority. [Note: The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan in accordance with § 62.1-44.15:34 or § 62.1-44.15:55 of the Code of Virginia.]
- C. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan [**OPTIONAL IF LOCALITY ACCEPTS AN AGREEMENT IN LIEU: or an "Agreement in Lieu of a Plan" signed by the property owner**].
- D. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA, ESCL, or this ordinance if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.

Section 1.8. PERMITS; FEES; SECURITY FOR PERFORMANCE

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan, certification that the plan will be followed and evidence of VPDES permit coverage where it is required.
- B. No person may engage in any land-disturbing activity until he or she has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance), has paid the fees and has posted the required bond.
- C. An administrative fee of [**amount, fee schedule, or reference to local ordinance**] shall be paid to [**locality**] at the time of submission of the erosion and sediment control plan.
- D. No land-disturbing permit shall be issued until the applicant submits with his or her application an approved erosion and sediment control plan [or agreement in lieu of an approved erosion and sediment control plan] and certification that the plan will be followed.

- E. The following additional text is optional at the discretion of the VЕСP authority: All applicants for permits shall provide to the [locality] a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the [position title], to ensure that measures could be taken by the [locality] at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him or her by the approved plan as a result of his land-disturbing activity.*

The amount of the bond or other security for performance shall not exceed the total of the estimated cost to initiate and maintain appropriate conservation action based on unit price for new public or private sector construction in the locality and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty-five percent of the cost of the conservation action. Should it be necessary for the [locality] to take such conservation action, the [locality] may collect from the applicant any costs in excess of the amount of the surety held. Within sixty (60) days of adequate stabilization, as determined by [department or position title] in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits. [End of optional language.]

Section 1.9. MONITORING, REPORTS, AND INSPECTIONS

- A. The responsible land disturber, as provided by § 62.1-44.15:52, shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The person responsible for carrying out the plan shall 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.
- B. The [department or position title] shall periodically inspect the land-disturbing activity in accordance with 9VAC25-875-330 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 owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection and shall such inspection in accordance with § 62.1-44.15:60 and the land-disturbing permit.

If the [position title] determines that there is a failure to comply with the plan, notice to comply may be served upon the permittee or person responsible for carrying out the plan. Such notice shall be served by delivery by facsimile, e-mail, or other technology; by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, if available, or in the land records of the locality; or by delivery

at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice to comply shall specify the measures needed to comply with the land-disturbance approval conditions or shall identify the plan approval or land-disturbance approval needed to comply with this article and shall specify a reasonable time within which such measures shall be completed. Upon failure to comply within the specified time, any plan approval or land-disturbance approval may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this ordinance.

- C. Upon issuance of an inspection report denoting a violation of § 62.1-44.15:55 of the Code of Virginia, the [position title] 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 [position title] 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, such a stop work 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 stop work 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 [locality] or permit holder for appropriate relief to the Circuit Court of [locality] [or other appropriate court]. The [locality] shall serve such order for disturbance without an approved plan upon the owner by mailing with confirmation of delivery to the address specified in the land records. The order shall be posted on the site where the disturbance is occurring, and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

If the alleged violator has not obtained an approved plan within seven days from the date of service of the stop work order, the [position title] 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 has been obtained. Such an order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the plan or the land records of [locality].

The owner may appeal the issuance of an order to the Circuit Court of [locality] [or other appropriate court].

Any person violating or failing, neglecting or refusing to obey an order issued by [position title] may be compelled in a proceeding instituted in the Circuit Court of [locality] 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, the order shall immediately be lifted.

Nothing in this section shall prevent the [position title] from taking any other action authorized by this ordinance or other applicable laws.

Section 1.10. PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

- A. Any person who has violated or failed, neglected, or refused to obey any order, notice, or requirement of the [VЕСP authority], any condition of a land-disturbance approval, or any provision of this ordinance shall, upon a finding of the District Court of [locality], 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.
- B. The [position title], or the owner or property which has sustained damage, or which is in imminent danger of being damaged, may apply to the Circuit Court of [locality] to enjoin a violation or a threatened violation of §§ 62.1-44.15:55 or 62.1-44.15:58 of the Code of Virginia, 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.

- C. 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 [locality] in a civil action for damages.
- D. 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 [locality].

Any civil penalties assessed by a court shall be paid into the treasury of [locality], 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.

- E. 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 [locality] may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection D of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection A or D.
- F. The Commonwealth's Attorney shall, upon request of the [locality], take legal action to enforce the provisions of this ordinance.

Section 1.11. APPEALS AND JUDICIAL REVIEW

- A. Final decisions of the [locality] under this ordinance shall be subject to review by the [authority] Circuit Court, 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 land-disturbing activities.

R-2



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- Civic Engagement
- Culture & Recreation
- Economic Development
- Education
- Housing
- Safe & Healthy Environment
- None (Does not apply)

Order of Business:

- Consent Agenda
- Public Hearing
- Presentation-Boards/Commissions
- Unfinished Business
- Citizen/Councilor Request
- Regular Business
- Reports of Council Committees

Action:

- Approve and File
- Take Appropriate Action
- Receive & File (no motion required)
- Approve Ordinance 1st Reading
- Approve Ordinance 2nd Reading
- Set a Public Hearing
- Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Increase the Assessor’s Administrative Assistant from a part-time to full-time position.

ISSUE: The City Assessor’s office has been understaffed for some time. Ron Agnor, the Interim Assessor, is attempting to get the office fully staffed so that the City can do the 2025 reassessment in house. The budget for the Assessor’s office was decreased by \$300,000 this year based on the City doing an in-house assessment rather than hiring an outside firm to accomplish this important task.

BACKGROUND: The current approved staffing is for a two-thirds time position for an Administrative Assistant; however, a full-time position is required to do the work of the office in the next year. This position will be advertised as a Real Estate Transfer Clerk for the purposes of filling the position.

The cost of moving from a part-time to full-time position will be approximately \$11,000 in salary plus any increase in salary roll-ups, depending on what salary level the position is filled at. Beyond the budget savings mentioned above, these additional salary costs will be covered by vacancy savings as the Assessor works to fill this position and a vacant appraiser position in the next month.

RECOMMENDATION: Approve the addition of one-third FTE for the Administrative Assistant position in the Assessor’s Office to bring this vacant position to full time.

TIMING: Action is requested at the July 23, 2024 City Council meeting.

SUMMARY:

- | Y | N | | Y | N | |
|--------------------------|--------------------------|-----------------------------------|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Rita Joyner, Ward #1 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Janice Denton, Ward #5 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Michael Harris, Ward #2 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Brenda Pelham, Ward #6 |
| <input type="checkbox"/> | <input type="checkbox"/> | Mayor John B. Partin, Ward #3 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Dominic Holloway, Sr., Ward #7 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vice Mayor Jasmine Gore, Ward #4 | | | |

ENCLOSED DOCUMENTS: Real Estate Transfer Clerk Job Description

STAFF: Russ Branson, Interim Finance Director

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call

SUMMARY:

- | Y | N | |
|--------------------------|--------------------------|-----------------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Rita Joyner, Ward #1 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Michael Harris, Ward #2 |
| <input type="checkbox"/> | <input type="checkbox"/> | Mayor John B. Partin, Ward #3 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vice Mayor Jasmine Gore, Ward #4 |

- | Y | N | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Janice Denton, Ward #5 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Brenda Pelham, Ward #6 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Dominic Holloway, Sr., Ward #7 |

City of Hopewell Job Description

Job Title: Real Estate Transfer Clerk

Job Code:

Reports to (Title): Real Estate Assessor

Pay Grade:

Department/Bureau: Finance

FLSA: NE

Job Purpose Summary

Perform complex property transfer and related functions; search titles; and deal with other departments, agencies and the general public in the office or on the telephone. Work is performed under supervision as determined by the City Real Estate Assessor based on current workloads and department needs.

Essential Responsibilities

- Read, interpret and record data from deeds to update and/or correct real estate parcel records.
- Conduct title searches to obtain correct owner of record information for updating files.
- Process new and corrected source documents to update files for property subdivisions.
- Answer inquiries from surveyors, real estate agents, lawyers, other City departments, mortgage companies and the general public.
- Enter new owners in the Assessor's software system from deed transfers or other documents.
- Perform other job duties requiring skills, knowledge and physical requirements as demanded by those duties described or less. Individual assignments will be determined by the supervisor based on then current workloads and department needs.
- Accurately interpret all pertinent data for the purposes of recording property transfers;
- Accurately perform research and title searches to obtain missing or incorrect information to correctly maintain land file in an accurate and up to date condition
- Answer inquiries in an accurate, timely and courteous manner;
- Read and interpret recording instruments from the Clerk of the Circuit Court and thoroughly check for accuracy of information.
- Assist in the research of escheated or unknown property by checking prior year deed books and other recorded documents through the Clerk of Circuit Courts office to determine record ownership of property, and if undetermined, property is then turned over to the escheator for the Commonwealth for further disposition.

Job Specifications

Minimum Education and Experience:

- High school or GED plus three (3) years' experience in fields providing the required knowledge, skills and abilities, such as work in real estate transfers and title research; or any equivalent combination of experience and training which provides the required knowledge, skills and abilities.

Preferences:

- A minimum of (3) three years of real estate title work with a certified title company or law firm responsible to owners, mortgage companies, or other title companies for accurate real estate title information.

Knowledge:

- Knowledge of departmental purpose and procedures.
- Knowledge of the principles and terminology of real estate.
- Knowledge of principles and terminology of mortgage banking.
- Knowledge of the municipal real estate system.
- Knowledge of state and local tax legislation as it applies to real estate ownership and transfer.
- Knowledge of practices associated with title research.

Skills:

- Skill in operating all office equipment.
- Skill in desktop computer operation.
- Skill in title research.
- Skill in scan reading with high degree of comprehension.
- Strong Communication (oral and written) and customer service.

Abilities:

- Ability to work under stressful conditions.
- Ability to communicate clearly and concisely both orally and in writing.
- Ability to transpose descriptive real estate data into useful map and reference numbers.
- Ability to work independently.
- Ability to maintain real estate records and files.
- Ability to interpret deeds, maps and plats.
- Ability to comprehend and follow oral and written instructions.
- Ability to perform tasks that require obtaining cooperation from co-workers or citizens to accomplish assigned tasks.
- Ability to work independently, but seek guidance when uncertainties arise.
- Ability to remember procedures and recall them to carry out routine tasks.

- Ability to adjust routine procedures to accommodate challenges or improve processes.
- Ability to maintain effective working relationships with internal and external customers.

Work Environment

- Work is performed indoors in an office environment.

Essential Physical Activities:

- Stooping, crouching, walking, lifting, grasping, hearing, seeing up close, seeing far away, kneeling, reaching, talking, standing, finger movement, depth perception.

DISCLAIMER: *The above information on this description has been designed to indicate the general nature and level of work performed by employees within this classification. It is not designed to contain or be interpreted as a comprehensive inventory of all duties and qualifications required of employees assigned to this job.*

Date Prepared: November 19, 2002

Date(s) Revised: 7-9-2014

12-1-2014

June 13, 2017

June 12, 2024

COUNCILOR REQUESTS

CCR-1



CITY OF HOPEWELL CITY COUNCIL ACTION FORM

Strategic Operating Plan Vision Theme:

- Civic Engagement
- Culture & Recreation
- Economic Development
- Education
- Housing
- Safe & Healthy Environment
- None (Does not apply)

Order of Business:

- Consent Agenda
- Public Hearing
- Presentation-Boards/Commissions
- Unfinished Business
- Citizen/Councilor Request
- Regular Business
- Reports of Council Committees

Action:

- Approve and File
- Take Appropriate Action
- Receive & File (no motion required)
- Approve Ordinance 1st Reading
- Approve Ordinance 2nd Reading
- Set a Public Hearing
- Approve on Emergency Measure

COUNCIL AGENDA ITEM TITLE: Repeal of recent ordinance related to city employees running for city public office

ISSUE: To repeal the ordinance relating to city employees running for city public office

RECOMMENDATION: To repeal the ordinance and be compliant with the state.

TIMING: July 23, 2024 City Council meeting

ENCLOSED DOCUMENTS: AG Opinion

STAFF: None

FOR IN MEETING USE ONLY

MOTION: _____

Roll Call

SUMMARY:

- | | | | | | |
|--------------------------|--------------------------|-----------------------------------|--------------------------|--------------------------|--|
| Y | N | | Y | N | |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Rita Joyner, Ward #1 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Janice Denton, Ward #5 |
| <input type="checkbox"/> | <input type="checkbox"/> | Councilor Michael Harris, Ward #2 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Brenda Pelham, Ward #6 |
| <input type="checkbox"/> | <input type="checkbox"/> | Mayor John B. Partin, Ward #3 | <input type="checkbox"/> | <input type="checkbox"/> | Councilor Dominic Holloway, Sr., Ward #7 |
| <input type="checkbox"/> | <input type="checkbox"/> | Vice Mayor Jasmine Gore, Ward #4 | | | |



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Jason S. Miyares
Attorney General

202 North Ninth Street
Richmond, Virginia 23219
804-786-2071
Fax 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

July 1, 2024

The Honorable Carrie E. Coyner
Member, Virginia House of Delegates
9910 Wagners Way
Post Office Box 58
Chesterfield, Virginia 23832

Dear Delegate Coyner:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issues Presented

You ask whether the City of Hopewell may adopt an ordinance containing certain provisions related to city employment and public office holding. You specifically inquire regarding provisions that direct as follows:

- (a) Any employee . . . may be a candidate for political office but shall resign, or shall be released, from employment with the City upon successful election to political office within the City, or other political office due to the responsibilities of that office [sic] will interfere with the employee's ability to perform the duties of his/her City position.
- (b) Any member of the governing body who seeks employment with the City shall resign from their elected office and may be eligible for such employment one year from their date of resignation in order to avoid the appearance of impropriety and any potential conflicts of interest.
- (c) Any Constitutional Officer who seeks employment with the City shall resign from their elected office and may become eligible for such employment one year from the date of their resignation in order to avoid the appearance of impropriety and any potential conflicts of interest.^[1]

Applicable Law and Discussion

In Virginia, the powers of local governing bodies are governed by the Dillon Rule, which establishes that local governments may exercise "only those powers expressly granted by the General

¹ CITY OF HOPEWELL, VA., Ordinance No. 0424(B)(4). The analysis contained herein is limited to these provisions.

Assembly, those necessarily or fairly implied therefrom, and those that are essential and indispensable.”² When “there is a reasonable doubt whether legislative power exists, the doubt must be resolved against the local governing body.”³ “The Dillon Rule is applicable to determine in the first instance, from express words or by implication, whether a power exists at all. If the power cannot be found, the inquiry is at an end.”⁴ Moreover, local action, when authorized, must be exercised in a manner consistent with state law.⁵ Actions taken by a locality that are *ultra vires*, i.e., beyond the powers of the locality, are void and of no effect.⁶

The provision terms about which you inquire, in effect, impose restrictions on who may hold local office. Article II, § 5 of the Virginia Constitution provides that “[t]he *only* qualification to hold any office of the Commonwealth or of its governmental units, elective by the people, shall be that a person must have been a resident of the Commonwealth for one year next preceding his election and be qualified to vote for that office[.]”⁷ Nevertheless, “nothing in this Constitution shall limit the power of the General Assembly to prevent conflict of interests, dual officeholding, or other incompatible activities by elective or appointive officials of the Commonwealth or of any political subdivision.”⁸ Recognizing the salutary purposes such laws may serve in certain circumstances, the Constitution thus contemplates that laws defining impermissible conflicts of interests or incompatible activities by officials will be enacted.⁹ The power to do so directly lies with the General Assembly.¹⁰ While the General Assembly has clear authority to enact laws governing conflicts of interests and incompatible activities by local officials, under the Dillon Rule, a locality may adopt such measures only if the General Assembly first has enacted legislation empowering it to do so, whether by general law or special act.

I find no act of the General Assembly that establishes directly restrictions like those you present.¹¹ I also find neither a statute that generally grants localities authority to adopt such rules nor a provision of the Hopewell City Charter that expressly or impliedly authorizes the Hopewell City Council to adopt

² *City of Richmond v. Confrere Club of Richmond, Va., Inc.*, 239 Va. 77, 78 (1990). *See also, e.g.*, *Marble Techs., Inc. v. City of Hampton*, 279 Va. 409, 417 (2010); *City of Va. Beach v. Hay*, 258 Va. 217, 221 (1999).

³ *Marble Techs., Inc.*, 279 Va. at 417 (quoting *Bd. of Supvrs. v. Reed’s Landing Corp.*, 250 Va. 397, 400 (1995)).

⁴ *Id.* at 416-17 (quoting *Commonwealth v. Arlington Cnty. Bd.*, 217 Va. 558, 575 (1977)); *see also* *Commonwealth v. Rivera*, 18 Va. App. 103, 107 (1994).

⁵ *See* VA. CODE ANN. § 1-248 (2022); *Blanton v. Amelia Cnty.*, 261 Va. 55, 63 (2001).

⁶ *See* *City of Chesapeake v. Gardner Enters., Inc.*, 253 Va. 243, 246 (1997); *Rivera*, 18 Va. App. at 107; *see also* 2008 Op. Va. Att’y Gen. 73, 76; 1986-87 Op. Va. Att’y Gen. 315, 316; 1975-76 Op. Va. Att’y Gen. 156, 158.

⁷ VA. CONST. art. II, § 5 (emphasis added).

⁸ *Id.* art. II, § 5(c).

⁹ *See id.*

¹⁰ *Id.*; *see also* VA. CONST. art. IV, § 1 (establishing that “[t]he legislative power of the Commonwealth shall be vested in a General Assembly”); VA. CONST. art. VII, § 2 (providing that the General Assembly shall provide for “the organization, government, [and] powers . . . of counties, cities, towns, and regional governments”); *Confrere Club of Richmond, Va., Inc.*, 239 Va. at 78 (setting forth the Dillon Rule of strict construction).

¹¹ I note that the State and Local Government Conflict of Interests Act (the “Conflicts Act”) does not prohibit a member of a city council from retaining a personal interest in a contract of employment with the city if that member’s “employment first began prior to the member becoming a member of the [city council].” *See* VA. CODE ANN. § 2.2-3107 (2022). The Conflicts Act, however, does not address “matters related to dual officeholding or to incompatibility of offices or positions.” 1996 Op. Va. Att’y Gen. 33, 35 (citing 1974-75 Op. Va. Att’y Gen. 561, 562). Although the General Assembly has enacted statutes barring certain types of dual officeholding by constitutional officers and members of local governing bodies, *see* §§ 15.2-1534 and 15.2-1535, these provisions do not implicate the types of restrictions you describe.

Honorable Carrie E. Coyner

July 1, 2024

Page 3

them.¹² While the charters for several other municipalities contain provisions similar to those you present,¹³ the Hopewell City Charter is silent on such issues.¹⁴ In the absence of any enabling legislation, I must conclude that the Hopewell City Council lacks authority to adopt the provisions you describe and they are *ultra vires*.

Conclusion

Accordingly, it is my opinion that the City of Hopewell lacks the authority to adopt the specific ordinance provisions presented. The authority to enact such measures, or to authorize the Hopewell City Council to do so, lies with the General Assembly.

With kindest regards, I am,

Very truly yours,



Jason S. Miyares
Attorney General

¹² Although the Conflicts Act generally bars a city council member from acquiring a personal interest in a contract of employment with the city subsequent to taking office, *see* § 2.2-3107, it does not require that the member resign his position on the city council and wait one year in order to become eligible for such employment. Nevertheless, as indicated above, the Act does not address matters related to incompatibility of offices or positions. Moreover, the Conflicts Act does not contain any provisions that authorize a local government to adopt its own conflict-of-interests ordinances; rather, the state law “establish[es] a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests . . . so that the standards of conduct for such officers and employees may be uniform throughout the Commonwealth.” Section 2.2-3100 (2022).

¹³ *See, e.g.*, CHARTER FOR THE CITY OF FRANKLIN, VA., § 3.10; CHARTER FOR THE TOWN OF RICH CREEK, VA., § 7; CHARTER FOR THE TOWN OF WISE, VA., § 3.9. *See also generally* 1996 Op. Va. Att’y Gen. 33, 34 (noting that the General Assembly was authorized under Article II, § 5 of the Constitution to pass a charter provision barring a town employee from serving as a member of the town council); 1979-80 Op. Va. Att’y Gen. 94, 95 (detailing the authority of the General Assembly under Article II, § 5 to pass a charter provision “prevent[ing] local employees from holding local office” (citing 1975-76 Op. Va. Att’y Gen. 35, 35)).

¹⁴ I note that localities have been afforded a process by which they can seek charter amendments by the General Assembly. *See* § 15.2-201 (2018). Whether such amendments are warranted is a policy question reserved to the General Assembly and one that is beyond the scope of an Opinion of this Office. *See, e.g.*, 2013 Op. Va. Att’y Gen. 82, 87; 2015 Op. Va. Att’y Gen. 87, 90; 1982-83 Op. Va. Att’y Gen. 220, 221; 1973-74 Op. Va. Att’y Gen. 142, 143.

ADJOURNMENT