



Consolidation of Virginia Erosion and Sediment Control and Stormwater Management Regulations

Update

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Planning Commission Environment Committee
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Background

Virginia Erosion and Stormwater Management Regulation

- Combined:
 - Erosion and Sediment Control Regulations.
 - Erosion and Sediment Control and Stormwater Certification Regulations.
 - Virginia Stormwater Management Program Regulations.

- Clarified program requirements, eliminated redundancies, and corrected inconsistencies between the State's erosion and sediment control regulations and stormwater management program regulations.



Background

Virginia Erosion and Stormwater Management Regulation

- 9VAC25-875 *et seq.*
- Virginia Register of Regulations VOL. 40 ISS. 8 – DECEMBER 04, 2023
<https://register.dls.virginia.gov/toc.aspx?voliss=40:08>



Background

Virginia Erosion and Stormwater Management Regulation

- No substantive changes to existing erosion and sediment control minimum standards or to the post-construction stormwater management technical criteria are part of the new regulation except for one change required by the Virginia Erosion and Stormwater Management Act (VESMA).
- VESMA changed the exemption provision for single-family detached residential structures.



Proposed Amendments to County Ordinances

- The Erosion and Sedimentation Control Ordinance (Chapter 104) will be deleted in its' entirety and its' technical requirements will be incorporated into the Stormwater Management Ordinance (Chapter 124).
- The new combined ordinance will be renamed the Erosion and Stormwater Management Ordinance (Chapter 124.1)



Proposed Amendments to County Ordinances

- There will be a common set of definitions, administrative provisions, violations and penalties, and appeals procedures applicable to both erosion and sediment control and stormwater management.
- The technical requirements from each ordinance will be retained and included as separate parts of the combined ordinance.



Changes to the Exemption Provisions

- Under current laws and regulations, the county created a limited exemption for single-family detached residential structures in our Stormwater Management Ordinance from both storm water quantity and quality control for land disturbing activities greater than 2,500 sq. ft. and less than 1 acre.
- Under VESMA, **quantity control is required** and the County may only exempt land-disturbing activities 2,500 sq. ft. or more for single-family detached (SFD) residential structures from water quality control.
- The elimination of the exemption for quantity control should have no impact because detention facilities are already being constructed under the residential infill detention policy.



County's Current Limited Exemption

- Single-family dwellings separately built and disturbing less than 1 acre including additions, accessory structures and demolitions exempt for both water quantity and quality:
 - Total imperviousness on the lot will be less than 2,500 square feet or 18% of the lot area, whichever is greater; or
 - The total lot area is one-half acre or less and no more than 500 square feet of new impervious area will be added; or
 - Water quality controls meeting requirements in effect at the time were provided with the original subdivision construction and are currently in place; or
 - The property is served by an existing regional stormwater management facility providing water quality control.



Profile of Activities Under the Existing Exemption

- 527 new infill lot grading plans were submitted in 2023.

- 15% qualified for the exemption.

- The 15%, qualified for the exemption as follows:
 - 47% - Total imperviousness less than 2,500 square feet or 18% of the lot area.
 - 43% - Lot area 1/2 acre or less and no more than 500 sq. ft. of new impervious area.
 - 10% - Water quality controls provided with original subdivision.
 - 0% - Water quality controls provided by an existing regional facility



Profile of Activities Under the Existing Exemption

- The 15%, are distributed by **construction type** as follows:
 - 13% - Addition or accessory structure
 - 63% - Demolish existing SFD home and build new SFD home
 - 9% - New SFD home on vacant lot
 - 15% - Pool



Item for Discussion by the Environment Committee

- Should the county continue to exempt SFD from requiring water **quality** controls for all land disturbance equal to or greater than 2,500 sq. ft. and less than 1 acre on infill lots?

Considerations Related to the Exemption

- Cost to homeowners to provide on-site BMPs or purchase nutrient credits or a combination of the two.
 - The cost of meeting the water quality requirement by purchasing nutrient credits only is estimated to be \$1,800 - \$4,375 per project.
 - Facilities installed for quantity control also may provide a measure of quality control which may reduce costs.
 - Future costs and the availability of nutrient credits may change the calculus of on-site facilities vs. purchasing credits.



Considerations Related to the Exemption

- Purchase of nutrient credits does not improve water quality in county streams.
 - There are no nutrient banks in Fairfax County.
 - We cannot prohibit the purchase of nutrient credits.
- Consistency.
 - The profile of the activities that qualify for the exemption and those that don't is virtually identical and consists of around 70 % new SFD homes.



Summary

- Erosion and Sedimentation Control Ordinance and Stormwater Management Ordinance will be combined into a single ordinance.
- Minimal substantive changes to technical criteria.
- Water **quantity** control required for all land disturbance equal to or greater than 2,500 sq. ft.
- Board to decide on whether to continue to exempt infill SFD construction from providing water quality controls for all land disturbance equal to or greater than 2,500 sq. ft. and less than 1 acre.



Timeline



- May 21, 2024 – Board Authorization.
- June 12, 2024 – Planning Commission Hearing
- June 26, 2024 – Board Hearing
- July 1, 2024 – Effective Date



Questions



FAIRFAX COUNTY
LAND DEVELOPMENT SERVICES