

**FAIRFAX COUNTY PLANNING COMMISSION
ENVIRONMENT COMMITTEE
THURSDAY, APRIL 25, 2024**

PRESENT: Mary D. Cortina, Chairman
John C. Ulfelder, Dranesville District, Vice-Chairman
Phillip Niedzielski-Eichner, At-Large
Timothy Sargeant, At-Large (Alternate)
John A. Carter, Hunter Mill District (Alternate)

ABSENT: Walter C. Clarke, Mount Vernon District (Alternate)

OTHERS: Evelyn S. Spain, Sully District
John A. Friedman, Land Development Services (LDS)
Jan Shaw Leavitt, LDS
Samantha Lawrence, Senior Deputy Clerk, Planning Commission,
Department of Clerk Services

ATTACHMENTS:

A. CONSOLIDATION OF VIRGINIA EROSION AND SEDIMENT CONTROL AND
STORMWATER MANAGEMENT REGULATIONS

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Chairman Cortina called the meeting to order at 8:30 p.m. in Conference Room 11, of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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Chairman Cortina announced that the September 28, 2023, minutes were before the Committee and entertained a motion for approval. Commissioner Ulfelder MOVED TO APPROVE THE SEPTEMBER 28, 2023, ENVIRONMENT COMMITTEE MINUTES.

Commissioner Sargeant seconded the motion, which carried by a vote of 4-0. Commissioner Clarke was absent from the meeting. Commissioner Sargeant voted as alternate member.

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John Friedman, Land Development Services, gave a presentation on the Consolidation of Virginia Erosion and Sediment Control and Stormwater Management Regulations, a copy of which is in the date file.

There was a discussion between Mr. Friedman and multiple Committee members on the following issues:

- How the Erosion and Sedimentation Control Ordinance by the state would no longer be in effect, and the technical requirements that would be incorporated into the County's Stormwater Management Ordinance;

- How the new combined ordinance would be renamed the Erosion and Stormwater Management Ordinance;
- How facilities were required to provide under a Minimum Standard (MS) 19 policy to provide water quantity control;
- Explanation on how landfill lot owners could purchase nutrient credits to meet water quality control standards;
- Clarification that additional options were available in lieu of purchasing credits, such as implementing a rain garden, permeable pavement, or planters that handle quantity;
- Clarification on the role of state regulation in terms of what a homeowner does or does not do in terms of stormwater management and if the local regulation would work in conjunction with the state regulation;
- Clarification on whether the soil type factored into the homeowner's decision to pursue nutrient credits versus stormwater retention features;
- Clarification on who qualified for purchasing nutrient credits;
- Explanation that the state has a program where they certify nutrient credit banks and homeowners could only purchase through these banks, which were located outside of Fairfax County;
- Clarification that homeowners could purchase credits in lieu of other avenues to maintain stormwater quality and control;
- Discussion on the challenges for new applicants who had sites with significant amounts of hard clay and how they could implement appropriate types of water quantity controls;
- Suggestion that an informational handout be provided to property owners regarding water quantity and quality control options;
- Concerns on whether to continue allowing exemptions for water quality and quantity control standards, and circumstances for when a homeowner might not pursue an exception.
- Staff stated that they reviewed data over a one-year time span to verify that 15% of homeowners qualified for the exemption;
- Clarification that the four types of structures that would be analyzed for exemptions were the following:
 - Additions and accessories;
 - Teardowns and rebuilds;
 - New house constructions on vacant lots; and
 - Pools.

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Chairman Cortina stated that she and Commissioner Carter attended the Environmental Quality Advisory Council (EQAC) meeting where it was suggested that the rest of the Committee review the EQAC report and review the following topics that were land use related:

- Implementation of specific processes that minimized ecological degradation from development pressure and open space;
- Improvements to land development process by prioritizing trees;
- Implementation an electric vehicle (EV) charging station network;
- Update the state of the plan and the concept for future development map;

- The green infrastructure map and the future transportation map, as they related to the ecological degradation;
- The net environmental benefit rubric for mixed use and infill;
- The integrated network of ecological land and water;
- Environmental Quality Corridor, Resource Protection Areas, floodplain, steep slope, tree preservation, and tree covers as part of an integrated network that would be identified;
- Green buildings and heat islands;
- Private sector green buildings standards;
- Data centers;
- Protection of the Occoquan River, including sodium and Polyfluorinated Substances (PFAS);
- Equitable investments for parks;
- Ecological restorations and corridors; and
- The equitable tree canopy invasive species tree related recommendations from the Mount Vernon infill task force.

Chairman Cortina further stated that, based on the EQAC report, the following topics had been prioritized:

- Ecological degradation from development pressure;
- EV charging network; and
- The state of the Comprehensive Plan for the next 10-year period.

Commissioner Niedzielski-Eichner requested for clarification on if the County had a smart growth policy. Chairman Cortina clarified that the County had such a policy, which was the concept of future development that directed jobs and housing to activity centers.

Commissioner Niedzielski-Eichner further asked if the Office of Environmental and Energy Coordination was going to be part of future discussions. It was confirmed that they would be.

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Chairman Cortina announced that the Environmental Committee's next meeting was tentatively scheduled for May 23, 2024.

The meeting was adjourned at 9:35 p.m.
Mary D. Cortina, Chairman

An audio recording of this meeting is available in the Planning Commission Office,
12000 Government Center Parkway, Suite 552, Fairfax, Virginia 22035.

Minutes by: Michelle Jordan

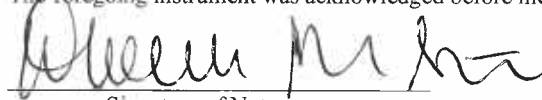
Approved: May 23, 2024



Jacob L. Caporaletti, Clerk to the
Fairfax County Planning Commission

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 3 day of June 2024 by Jacob Caporaletti


Signature of Notary

Notary registration number: 7114113

Commission expiration: January 31, 2028



The image shows the exterior of a building with large glass windows and concrete columns. A circular seal of Fairfax County, Virginia, is mounted on the wall. The seal features a central figure, the date 1742, and the text 'COUNTY OF FAIRFAX VIRGINIA'.

Consolidation of Virginia Erosion and Sediment Control and Stormwater Management Regulations

Update

John A. Friedman, P.E.
Land Development Services

Planning Commission Environment Committee
April 25, 2024

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>



FAIRFAX COUNTY
LAND DEVELOPMENT SERVICES

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