

Fairfax County 2018 MS4 Program Plan and Annual Report

Appendix P3

More Stringent Stormwater and Erosion and Sediment Control
Legal Authorities

VSMP Permit Number VA0088587
9-28-2018

Stormwater Management Ordinance Stringency Table

County Ordinance Section and Title		Virginia Law/Regulations	County Requirements More Stringent than State Law/Regulations	Current County Requirements that are More Stringent than the new State Law/Regulations
§ 124-1-7.3	Exemptions - Single Family Detached residential lots, separately built	§ 62.1-44.15:34C	The proposed exemption for single-family residences that are not part of a common plan of development is more restrictive than the full exemption provided in the Stormwater Management Act but within the authority granted by the Act to Chesapeake Bay localities.	Land disturbances exceeding 2,500 square feet are currently required to provide a plan that addresses erosion, sedimentation, and stormwater drainage. Under the Chesapeake Bay Preservation Ordinance (Code Chapter 118), if impervious area exceeds 18% of the property a water quality BMP is required. Note: The proposed residential exemption that allows up to 2,500 total square feet of impervious area after construction, is less stringent than the current Chesapeake Bay Preservation Ordinance.
§ 124-4-2.	Water Quality Design Criteria Requirements.	9 VAC 25-870-63	The County's stormwater management requirements for development within the Water Supply Protection Overlay District (WSPOD) may be more stringent than minimum state requirements for redevelopment.	The WSPOD requirements have been in effect since 1980 and are derived from the Zoning Ordinance.
§ 124-4-3.	Water Quality Compliance.	9 VAC 25-870-65	The PFM limits the use and location of specific BMPs on single family residential lots and limits the maximum drainage area for grass channels and filtering practices.	The limitations are based on current constraints within the PFM, recommended limits within the state specifications, or are based on lessons learned from county experience with design and maintenance of certain BMP types.
§ 124-4-3.	Water Quality Compliance.	9 VAC 25-870-65	New BMPs approved by the Virginia BMP Clearinghouse must also be approved by the County prior to use.	The current PFM, adopted June, 2011 states in Section 6-0402.4 that other innovative BMP measures may be permitted but, due to the design variables that could affect their appropriateness, requests for use of these techniques will be reviewed on a case by case basis and approved by the Director as appropriate.
§ 124-4-4.B	Water Quantity. Channel Protection	9 VAC 25-870-66	Proposed requirements for channel protection and flooding (e.g. "adequate outfall") are more stringent than minimum requirements of the State Regulations.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.

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§ 124-4-4.B.3.a	Water Quantity. Channel Protection	9 VAC 25-870-66.B.3	Pre-development is assumed to be "good forested condition" when utilizing the County's detention method, which reduces the post-development peak discharge to below state requirements and increases the required detention volume. The state only requires detention be provided assuming the pre-development condition, not "good forested". An option has been added that if an applicant can demonstrate that the outfall is adequate, then existing conditions can be used in lieu of "good forested condition" to determine detention requirements for the 1-year storm when discharge is to a natural channel.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.
§ 124-4-4.B.3.a	Water Quantity. Limits of Analysis for Channel Protection	9 VAC 25-870-66	Outfall channels must be analyzed for erosion to the limits of analysis unless onsite detention is provided using the County's detention method and pre-development is assumed to be "good forested condition". Whether or not onsite detention is provided, the applicant must demonstrate that a "defined channel or man-made drainage facility" exists for the full limits of analysis. Under the state regulations, if onsite detention is provided such that the 1-year storm discharge meets the energy balance equation for pre-development conditions, no outfall analysis is required.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.
§ 124-4-4.C.3	Water Quantity. Flood Protection	9 VAC 25-870-66	Definition of localized flooding added.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.
§ 124-4-4.C.5	Water Quantity. Limits of Analysis for Flood Protection	9 VAC 25-870-66	Outfall channels must be analyzed for flooding to the limits of analysis unless onsite detention is provided for the 2-year and 10-year storm event using the County's detention method and pre-development is assumed to be "good forested condition". Whether or not onsite detention is provided, the applicant must demonstrate that a "defined channel or man-made drainage facility" exists for the full limits of analysis and check for flooding of downstream structures during the 100-year event. Under the state regulations, if detention is provided such that the 10-year storm discharge is less than the 10-year pre-development peak discharge, no outfall analysis for flooding is required.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.

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§ 124-4-4.C.5	Water Quantity. Flood Protection	N/A	Requires detention of the post-development peak rate 100-year such that it does not exceed the pre-development 100-year peak discharge if an existing dwelling or a building constructed under an approved building permit is located within the limits of downstream analysis, is flooded.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.
§ 124-4-4.D	Water Quantity.	9 VAC 25-870-66	Unless waived by the Director of DPWES, detention must be provided such that the 2-year and 10-year post-development peak discharge from the site does not exceed the pre-development 2-year and 10-year peak discharges.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.
§ 124-4-4.D	Water Quantity.	9 VAC 25-870-66	In the Four Mile Run watershed, the post-development peak flow for the 100-year storm event must be equal to or less than the predevelopment peak flow rate from the 100-year storm unless it is contraindicated by the watershed model developed for the Four Mile Run Watershed Management Program.	These requirements are consistent with existing provisions in the PFM, latest edition adopted June 2011.

Erosion and Sedimentation Control Ordinance - Sections more Stringent ¹ than State Law and Virginia Administrative Code

Co. E&S Ordinance PFM Section	Standard and Specification²	Virginia E&S Law/Regulations	County Requirements that are More Stringent than Virginia E&S Law/Regulations
§ 104-1-8(a)(1) PFM §11-0110.3A	Std. & Spec. #3.04 Straw Bale Barriers	VESCH Std&Spec 3.04	Rebar not allowed for stakes, practice not allowed for perimeter control.
§ 104-1-8(a)(2) PFM §11-0110.3B	Std. & Spec. #3.06 Brush Barrier	VESCH Std&Spec 3.06	Practice only allowed with specific authorization of the Director
§ 104-1-8(a)(3) PFM §11-0110.3C	Std. & Spec. #3.07 Storm Drain Inlet Protection	VESCH Std&Spec 3.07	Configurations which completely block inlet not allowed; Straw bale and cinder block wrapped in fabric not allowed.
§ 104-1-8(a)(4) PFM §11-0110.3D	Std. & Spec. #3.13 Temporary Sediment Trap	VESCH Std&Spec 3.13	When in RPAs: increased storage requirement to 202 CY/ac.; pipe outlet may be required for < 1 ac, and stone outlet required
§ 104-1-8(a)(5) PFM §11-0110.3E	Std. & Spec. #3.14 Temporary Sediment Basin	VESCH Std&Spec 3.14	When in RPAs: increased storage requirement to 202 CY/ac
§ 104-1-8(a)(6) PFM §11-0110.3F	Std. & Spec. #3.34 Bermuda Grass and Zoysia Grass Establishment	VESCH Std&Spec 3.34	Practice not allowed in the County.
§ 104-1-8(a)(7) PFM §11-0110.3G	Std. & Spec. #3.38 Tree Preservation and Protection	VESCH Std&Spec 3.38	VESCH section not to be used. In its place, PFM Chapter 12 shall be used.
§ 104-1-8(a)(8) PFM §11-0110.3H	Std. & Spec. #3.02 Temporary stone construction entrance	VESCH Std&Spec 3.02	Required minimum length of 75 feet; filter fabric underliner; and specifies wash rack may be required.
§ 104-1-8(a)(9) PFM §11-0110.3I PFM §11-0406.7	Std. & Spec. #3.31 Temporary Seeding	VESCH Std&Spec 3.31	Mulch is always required for temporary seeding; winter stabilization required after Nov. 1.

FOOTNOTES

1) Pursuant to § 62.1-44.15:65.A and B of the Code of Virginia, the County is authorized to have an VESCP program that contains more stringent soil erosion and sediment control regulations and ordinances than those necessary to ensure compliance with the Regulations (9 VAC 25-840 et seq.), provided that any more stringent provisions that become effective on or after July 1, 2012, are based on certain factual findings and reported to the Water Control Board.

2) Conservation standards listed in § 104-1-8(a) of the County Code, and corresponding provisions in PFM § 11-0110.3, are the Standards and Specifications as contained in the Virginia and Erosion and Sediment Control Handbook (VESCH), third edition (1992), with modifications as listed in § 104-1-8(a)(1) through (10), which are mandatory in the County.