

CAMPBELL COUNTY CODE OF 1988
CHAPTER 8

EROSION AND SEDIMENT CONTROL AND STORMWATER MANAGEMENT

For state law as to Erosion and Sediment Control Law generally, see VA. CODE ANN. §62.1-44.15:51 et seq. (Repl. Vol. 2019). As to state law as to Stormwater Management generally, see VA. CODE ANN. §62.1-44.15:24 et seq. (Repl. Vol. 2019).

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ARTICLE I. GENERAL, PURPOSE AND AUTHORITY, DEFINITIONS.

Sec. 8-1. General.

The purpose of this chapter is to protect and conserve our land, water and natural resources within the county, from the potential harm from land disturbing activities, and to ensure the general health, safety and welfare of the citizens of Campbell County. The county recognizes the fact that off-site erosion, unmanaged stormwater, flooding and nonpoint source pollution from land disturbing activities have contributed to the degradation of properties, water quality and other natural resources. Pursuant to §62.1-44.15:27, Campbell County hereby establishes a stormwater management program. This chapter establishes the procedures whereby stormwater management and erosion and sediment control requirements related to water quantity and quality shall be administered and enforced in accordance with the Administrative Process Act (VA. CODE ANN. §2.2-4000 et seq. (Repl. Vol. 2017 and Cum. Supp. 2019)). The provisions of this chapter apply throughout Campbell County, including the towns of Altavista and Brookneal, which lie within the boundaries of Campbell County and have not adopted their own programs.

The unified stormwater management program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspections and enforcement activities in a convenient and efficient manner for both Campbell County and those responsible for compliance with the program.

Where inadvertent conflicts between this Chapter and the language of the State Water Control Act (Chapter 3.1, §62.1-44.2 et seq. of Title 62.1 of the Code of Virginia) appear, the language of the state code controls. The provisions of the Stormwater Management Act (VA. CODE ANN. § 62.1-44.15.24 et seq. (Repl. Vol. 2019)) and the Erosion and Sediment Control Law (VA. CODE ANN. § 62.1-44.15.51 et seq. (Repl. Vol. 2019)) are hereby incorporated into this Chapter by reference.

For state law authority, see VA. CODE ANN. §62.1-44.15:54 A and D (Repl. Vol. 2019), and VA. CODE ANN. §62.1-44.15:27 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT substituted “Pursuant to §62.1-44.15:27, Campbell County hereby establishes” for “chapter establishes procedures whereby” in the third sentence, and added “This Chapter establishes the procedures whereby stormwater management” at the beginning of the fourth sentence.]

[THE JULY 16, 2019 AMENDMENT added the third paragraph.]

Sec. 8-2. Definitions.

For the purpose of this chapter, certain terms and words used herein shall be interpreted as follows, unless the context clearly indicates otherwise. In addition, some terms not defined herein are defined in Virginia Erosion and Sediment Control Regulations §9VAC25-840-10, and the

Virginia Stormwater Management Regulations §9VAC25-870-10 are incorporated herein by reference. Such incorporation by reference is specifically intended to include future amendments to the applicable statutes, state regulations, standards, and specifications.

Administrator. The VSMP authority including the County Administrator, or designee, for administering the VSMP on behalf of the locality, or, where context requires, the Administrator of the United States Environmental Protection Agency or an authorized representative.

Administrative Guidance Manual. The documentation of policies and procedures for documentation and calculations verifying compliance with the water quality and quantity requirements, review and approval of Stormwater Pollution Prevention Plans and Stormwater Management Plans, site inspections, obtaining and releasing bonds, reporting and recordkeeping, and compliance strategies for reviews, enforcement, and long-term maintenance and inspection programs.

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

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

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

Board. State Water Control Board.

Certified inspector. An employee or agent of a VESCP authority who (i) holds a certification 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 year after enrollment.

Certified plan reviewer. An employee or agent of a VESCP authority who (i) holds a certification 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 year after enrollment, or (iii) is licensed as a professional engineer, architect, landscape architect, land surveyor pursuant to VA. CODE ANN. §54.1-400 et seq. (Repl. Vol. 2019), or professional soil scientist as defined in VA. CODE ANN. §54.1-2200 (Repl. Vol. 2019).

Certified program administrator. An employee or agent of a VESCP authority who (i) holds a certification 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 year after enrollment.

Clearing. Any activity which removes the vegetative ground cover including but not limited to root mat removal or topsoil removal.

Clean Water Act or “CWA”. The federal Clean Water Act (33 U.S.C §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.

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

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

Department. The Department of Environmental Quality.

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 non-agricultural or non-silvicultural purposes.

Director. The Director of the Virginia Department of Environmental Quality.

District or Soil and water conservation district. A political subdivision of the Commonwealth organized in accordance with the provisions of the Soil and Water Conservation Districts Law, VA. CODE ANN. §10.1-506 et seq. (Repl. Vol. 2018), in this instance the Robert E. Lee Soil and Water Conservation District, for the purposes, with the powers, and subject to the restrictions set forth in this chapter and in VA. CODE ANN. §10.1-506 et seq. (Repl. Vol. 2018).

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

Erosion impact area. An area of land not associated with 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.

Excavate. Ditching, dredging, or mechanized removal of earth, soil, or rock.

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

Inspection. An on-site review of the project’s compliance with the permit or the state permit, the VSMP, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of this Chapter.

Land disturbance or Land-disturbing activity. (Erosion and Sediment Control Program, §62.1-44.15:51 et seq.) Any man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including, but not limited to, clearing, grading, excavating, transporting and filling of land, except that the term shall not include those exemptions specified in § [62.1-44.15:34](#) of the Code of Virginia and:

1. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;

2. Individual service connections;

3. Installation, maintenance, or repair of any underground public utility lines when such activity occurs on an existing hard surfaced road, street, or sidewalk, provided the land-disturbing activity is confined to the area of the road, street, or sidewalk that is hard surfaced;

4. Septic tank lines or drainage fields unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;

5. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1;

6. Clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ [10.1-1100](#) et seq.) or is converted to bona fide agricultural or improved pasture use as described in subsection B of § [10.1-1163](#);

7. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

8. Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ [10.1-604](#) et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation;

9. Disturbed land areas of less than 10,000 square feet in size or 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations; however, the governing body of the program authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply;

10. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

11. Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and

12. Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of the VESCP authority.

Land-disturbing approval. An approval allowing a land-disturbing activity to commence issued by the County as a VESMP or VESCP authority after the requirements of state law have been met.

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

Minor modification. An amendment to an existing 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 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. 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.

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

Operator. The owner or operator of any facility or activity subject to regulation under this Ordinance.

Owner. The Commonwealth or any of its political subdivisions, including but not limited to sanitation district commissions and authorities and any public or private institution, corporation, association, firm, or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes, to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of state law.

Peak flow rate. The maximum instantaneous flow from a prescribed design storm at a

particular location.

Permit or "VSMP Authority Permit". An approval to conduct a land-disturbing activity issued by the VSMP authority for the initiation of a land-disturbing activity after evidence of state VSMP general permit coverage has been provided where applicable.

Permittee. The person to whom a permit pursuant to this Chapter is issued. Person. Any individual, corporation, partnership, association, governmental body, municipal corporation, or any other legal entity.

Plan-approving authority. The Board, the program authority, or a department of a 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. Such person or persons shall be designated from time to time by the Board of Supervisors of Campbell County as its agent(s) to administer this chapter.

Program authority. A district, county, city, or town that has adopted a soil erosion and sediment control program that has been approved by the Board.

Regulations. The Virginia State Administrative Code, as amended.

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

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

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

State. The Commonwealth of Virginia.

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

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

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

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

Stormwater management plan. A document(s) containing material describing methods for

complying with the requirements of a VSMP.

Stormwater Pollution Prevention Plan or "SWPPP". A document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. In addition the document shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of, an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

Subdivision. The same as defined in Chapter 21 of the Code of Campbell County

Total maximum daily load or "TMDL" 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.

Virginia Erosion and Sediment Control Program or VESCP. A program approved by the Board that is established by a VESCP 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. The VESCP shall include, where applicable, such items as local ordinances, rules/policies and guidelines, technical materials, and requirements for plan review, inspection, , and evaluation consistent with the requirements of this Chapter and its associated regulations.

Virginia Erosion and Sediment Control Program authority or VESCP authority. A locality that is approved by the Board to operate a Virginia Erosion and Sediment Control Program in accordance with state law. For purposes of this Chapter, the VESCP authority is Campbell County through its Community Development Department, and the Environmental Manager is responsible for the administration of the program.

Virginia Stormwater BMP Clearinghouse website. A website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations.

Virginia Stormwater Management Act or Act. Article 2.3 (§62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

Virginia Stormwater Management Program or VSMP. A program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 20, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations.

Virginia Stormwater Management Program authority or VSMP authority. An authority

approved by the Board after September 13, 2011, to operate a Virginia Stormwater Management Program.

Water quality volume. The volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project.

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

For state law authority, see VA. CODE ANN. §62.1-44.15:51 and 62.1-44.15:24 (Repl. Vol. 2019) and Virginia Admin. Code §9VAC25-870-10. See also VA. CODE ANN. §62.1-44.3 (Repl. Vol. 2019). See Virginia Erosion and Sediment Control Regulations §9VAC25-840-10 et seq. See also Virginia Stormwater Management Regulations §9VAC25-870.

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT added definitions of “Administrator”, “Agreement in lieu of a stormwater management plan”, created separate definitions for “Land-disturbing activity” and “Permittee” for Erosion and Sediment Control and for Stormwater Management, corrected a citation in the definition of “Regulations”, revised the definition for “Total Maximum Daily Load”, and deleted a definition for “VSWCB.”]

[THE DECEMBER 2, 2014 AMENDMENT deleted definition of “Chesapeake Bay Preservation Act land disturbing activity.”]

[THE JULY 16, 2019 AMENDMENT rewrote several definitions to match state code.]

ARTICLE II EROSION AND SEDIMENT CONTROL

Sec. 8-3 Establishment of a Virginia Erosion and Sediment Control Program (VESCP)

(a) Campbell County hereby adopts and administers a VESCP, and shall constitute a VESCP Authority pursuant to the definition found in Section 8-2 of this Code.

(b) A VESCP authority may enter into agreements or contracts with soil and water conservation districts, adjacent localities, or other public or private entities to assist with carrying out the provisions of this article, including the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities on a unit or units of land as well as for monitoring, reports, inspections, and enforcement where authorized in this article, of such land-disturbing activities.

(c) Campbell County's VESCP shall be approved by the Board if it establishes by ordinance requirements that are consistent with state law and associated regulations.

(d) The Code of Campbell County includes provisions for the integration of the VESCP with Virginia stormwater management, flood insurance, flood plain management, and other programs requiring compliance prior to authorizing a land-disturbing activity in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the County and those responsible for compliance with the programs.

(e) The governing body of any county, city, or town, or a district board that is authorized to administer a VESCP, may adopt an ordinance or regulation where applicable providing that violations of any regulation or order of the Board, any provision of its program, any condition of a permit, or any provision of this article shall be subject to a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$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 that 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 that exceed a total of \$10,000. Adoption of such an ordinance providing that violations are subject to a civil penalty shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor under subsection A of § [62.1-44.15:63](#). The penalties set out in this subsection are also available to the Board in its enforcement actions.

For state law basis, see VA. CODE ANN. §62.1-44.15:54 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-4 Regulated land disturbing activities; submission and approval of erosion and sediment control plan.

(a) Except as provided for in VA. CODE ANN. §62.1-44.15:56 (Repl. Vol. 2019) for state agency and federal entity land-disturbing activities, , no person shall engage in any land-disturbing activity, including activity that results from the construction of a single-family residence, and clearing and grubbing of land other than agricultural purpose until such person has submitted to the VESCP Authority an erosion and sediment control plan for the land-disturbing activity, and the plan has been reviewed and approved. A VESCP may enter into an agreement with an adjacent VESCP regarding the administration of multijurisdictional projects whereby the jurisdiction that contains the greater portion of the project shall be responsible for all or part of the administrative procedures.

(b) The VESCP 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 this article and the Board's regulations and if the person responsible for

carrying out the plan certifies that he will properly perform the erosion and sediment control measures included in the plan and shall comply with the provisions of this article. 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 an individual holding a certificate of competence to the VESCP authority, as provided by § [62.1-44.15:52](#), who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of an individual holding a certificate of competence prior to engaging in land-disturbing activities may result in revocation of the approval of the plan and the person responsible for carrying out the plan shall be subject to the penalties provided in this article.

When a 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 the modifications, terms, and conditions that will permit approval of the plan. If no action is taken by the VESCP authority within the time specified in this subsection, the plan shall be deemed approved and the person authorized to proceed with the proposed activity. The VESCP 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.

(c) The VESCP authority may require changes to an approved plan in the following cases:

1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations; or
2. Where the person responsible for carrying out 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 article and associated regulations, are agreed to by the VESCP authority and the person responsible for carrying out the plan.

(d) Electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, and railroad companies shall, and authorities created pursuant to § [15.2-5102](#) may, file general erosion and sediment control standards and specifications annually with the Department for review and approval. Such standards and specifications shall be consistent with the requirements of this article and associated regulations and the Stormwater Management Act (§ [62.1-44.15:24](#) et seq.) and associated regulations where applicable. The specifications shall apply to:

1. Construction, installation, or maintenance of electric transmission, natural gas, and telephone utility lines and pipelines, and water and sewer lines; and
2. Construction of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of the railroad company.

(e) Any person engaging, in more than one jurisdiction, in the creation and operation of a wetland mitigation or stream restoration bank or banks, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) wetlands mitigation or stream restoration banks, pursuant to

a mitigation banking instrument signed by the Department of Environmental Quality, 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, at the option of that person, file general erosion and sediment control standards and specifications for wetland mitigation or stream restoration banks annually with the Department for review and approval consistent with guidelines established by the Board.

(f) In order to prevent further erosion, a VESCP authority may require approval of an erosion and sediment control plan for any land identified by the VESCP authority as an erosion impact area.

(g) For the purposes of subsections (a) and (b), when 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.

(h) The Virginia Erosion and Sediment Control Regulations and state minimum standards and specifications, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board, are hereby adopted as a part of this article and incorporated herein by reference. Such incorporation by reference is specifically intended to include future amendments to the regulations, minimum standards and specifications cited above. The design standards set forth in the Virginia Erosion and Sediment Control Handbook, as promulgated and amended from time to time by the Virginia State Water Control Board, are hereby designated as the standards to be used in plan review and inspection in Campbell County.

For state law authority, see VA. CODE ANN. §62.1-44.15:55 (Repl. Vol. 2019).

Editor's Note: VA. CODE ANN. §62.1-44.15:65 (Repl. Vol. 2019), as part of a VESCP, authorizes a district or locality to adopt more stringent soil erosion and sediment control regulations than those necessary to ensure compliance with the state regulations, provided that the more stringent regulations or ordinances are based upon factual findings of local or regional comprehensive watershed management studies or findings developed through the implementation of an MS4 permit or a local adopted watershed management study and are determined by the district or locality to be necessary to prevent any further degradation to water resources, to address total maximum daily load requirements, to protect exceptional state waters, or to address specific existing water pollution including nutrient and sediment loadings, stream channel erosion, depleted groundwater resources, or excessive localized flooding within the watershed and that prior to adopting more stringent regulations or ordinances, a public hearing is held after giving due notice. However, no district or locality may impose more stringent regulations for plan approval or permit issuance than those specified in VA. CODE ANN. §62.1-44.15:55 (Repl. Vol. 2019) and VA. CODE ANN. §62.1-44.15:57 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 16, 2019 AMENDMENT added “or (ii) a stream restoration project for purposes of reducing nutrients or sediment entering state waters” at (e).]

Sec. 8-5. Certification of local program personnel.

(a) A local erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer; (ii) inspections of land-disturbing activities shall be conducted by a certified inspector; and (iii) a VESCP shall contain a certified program administrator, a certified plan reviewer, and a certified project inspector, who may be the same person.

(b) Any person who holds a certificate of competence from the Board in the area of plan review, project inspection, or program administration that was attained prior to the adoption of the mandatory certification provisions of subsection (a) of this section shall be deemed to satisfy the requirements of that area of certification.

For state law basis, see VA. CODE ANN. §62.1-44.15:53 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-6 Approved plan required for issuance of grading, building, or other permits; security for performance.

No grading, building, or other permits for activities involving land-disturbing activities regulated under this chapter shall be issued unless the applicant submits with his application an approved erosion and sediment control plan and certification that the plan will be followed and, upon the development of an online reporting system by the Department but no later than July 1, 2014, evidence of Virginia Stormwater Management Program permit coverage where it is required.

Prior to issuance of any permit, the County may also require an applicant to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the agency, to ensure that measures could be taken by the agency at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action that may be required of him 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 25 percent of the estimated cost of the conservation action.

If the County takes such conservation action upon such failure by the permittee, the County may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the achievement of adequate stabilization of the land-disturbing activity in any project or section thereof, the 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 based upon the percentage of stabilization accomplished in the project or section thereof. These requirements are in addition to all other provisions of law relating to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.

For state law basis, see VA. CODE ANN. §62.1-44.15:57 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-7. Requirements and Contents of an erosion and sediment control plan.

An erosion and sediment control plan for all land disturbing activities, greater than 10,000 square feet, that are not subject to the stormwater regulations in Article 3 of this Chapter is required under this article. The erosion and sediment control plan shall detail those methods and techniques to be utilized for the effective control of soil erosion, sediment deposition and nonagricultural runoff. At a minimum, the erosion and sediment control plan shall comply with the Virginia Erosion and Sediment Control Regulations and state minimum standards and specifications. All erosion and sediment control plans, *with the exception of plans associated with the construction of a single family structure*, shall be prepared by a licensed professional as referenced in section 8-5 (c).

Conservation practices for erosion and sediment control shall meet or exceed standards and specifications contained in the State Erosion and Sediment Control Handbook. Cite Code Reference. Practices for which standards and specifications are not contained in the State Erosion and Sediment Control Handbook may be approved by the local plan-approving authority based on the merits of the practice as proposed for use in individual circumstances.

Erosion and Sediment Control plans will be classified as the following:

(A) Commercial (Development not part of a Common Plan of Development or sale and disturbing less than 1 acre of land) -

1. A land disturbance permit application for commercial development, including linear road projects, and bulk grading plans shall contain an erosion and sediment control plan including but not limited to:

(a) A two-phased plan. Phase I shall address the controls needed prior to clearing and rough grading of the area to be disturbed. Phase II shall address the controls needed after utilities, building pad(s), roads and parking lots have been rough graded. This requirement may be waived by the plan reviewing authority.

(b) Pre and Post construction erosion and sediment control measures.

(c) A grading plan depicting final site grading.

(d) Pre and Post development stormwater calculations meeting the technical criteria of Section 8-19 of the stormwater management requirements.

(e) Location of drainage facilities, drainage patterns and drainage easements.

(B) Residential Lot (Single Family Construction not part of a Common Plan of Development and disturbing less than 1 acre of land):

1. A land disturbance permit application for a residential lot shall contain an erosion and sediment control plan including but not limited to.

(a) Pre and Post construction erosion and sediment control measures.

(b) A grading plan depicting the final lot grading,

(c) Location of drainage facilities, drainage patterns and drainage easements,

(d) Lowest floor elevations,

(e) One hundred year flood elevations if property is located within a FEMA designated floodplain.

All erosion and sediment control measures required by the provisions of this article or required under an approved plan or land disturbance permit shall be undertaken at the expense of the owner or his agent.

There shall be no issuance of approval or permits for any land disturbing activity, including the issuance of a building permit until the required erosion and sediment control plan has been approved.

For state law basis, see VA. CODE ANN. §62.1-44.15:55 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE DECEMBER 2, 2014 AMENDMENT added “greater than 10,000 square feet” in the first sentence, and substituted “land disturbance” for “building” before “permit” in (A)(1) and (B)(1).]

Sec. 8-8 Monitoring, reports, and inspections, stop work orders, civil penalties.

(a) Monitoring, reporting and inspections.

1. The VESCP authority (i) shall provide for periodic inspections of the land-disturbing activities that have been issued a local land disturbance permit and or a VSMP Permit, per 9VAC25-870-114 and require that an individual holding a certificate of competence, as provided by § [62.1-44.15:52](#), who will be in charge of and responsible for carrying out the land-disturbing activity and (ii) may require monitoring and reports from the person responsible for carrying out the erosion and sediment control plan, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sediment. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection. If the VESCP authority, where authorized to enforce this article, or the Department determines that there is a failure to comply with the plan following an inspection, notice shall be served upon the permittee or person responsible for carrying out the plan by mailing with confirmation of delivery to the address specified in the permit application or in the plan

certification, or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed. Upon failure to comply within the time specified, the permit may be revoked and the VESCP authority, where authorized to enforce this article, the Department, or the Board may pursue enforcement as provided by § [62.1-44.15:63](#).

2. Notwithstanding the provisions of subsection 1, a VESCP authority is authorized to enter into agreements or contracts with districts, adjacent localities, or other public or private entities to assist with the responsibilities of this article, including but not limited to the review and determination of adequacy of erosion and sediment control plans submitted for land-disturbing activities as well as monitoring, reports, inspections, and enforcement where an authority is granted such powers by this article.

3. Upon issuance of an inspection report denoting a violation of this section, § [62.1-44.15:55](#) or [62.1-44.15:56](#), in conjunction with or subsequent to a notice to comply as specified in subsection A, a VESCP authority, where authorized to enforce this article, or the Department may issue an order requiring that all construction and 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 as provided in § [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 erosion and sediment control 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 (a). Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply.

The order for noncompliance with a plan shall be served in the same manner as a notice to comply, and shall remain in effect for seven days from the date of service pending application by the VESCP authority, the Department, or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. The order for disturbance without an approved plan or permits shall be served upon the owner by mailing with confirmation of delivery to the address specified in the land records of the locality, shall be posted on the site where the disturbance is occurring, and shall remain in effect until such time as permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

The owner may appeal the issuance of any order to the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court. Any person violating or failing, neglecting, or refusing to obey an order issued by the Department or the chief administrative officer or his designee on behalf of the VESCP authority may be compelled in a proceeding instituted in the circuit court of the jurisdiction wherein the violation was alleged to have occurred or other appropriate court to obey same and to comply therewith by injunction,

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

Nothing in this section shall prevent the Department, the Board, or the chief administrative officer or his designee on behalf of the VESCP authority from taking any other action specified in § [62.1-44.15:63](#).

(b) Stop work orders, civil penalties.

(a) An aggrieved owner of property sustaining pecuniary damage resulting from a violation of an approved erosion and sediment control plan or required permit, or from the conduct of land-disturbing activities commenced without an approved plan or required permit, may give written notice of the alleged violation to the VESCP authority and to the Director.

(b) Upon receipt of the notice from the aggrieved owner and notification to the VESCP authority, the Director shall conduct an investigation of the aggrieved owner's complaint.

(c) If the VESCP authority has not responded to the alleged violation in a manner that causes the violation to cease and abates the damage to the aggrieved owner's property within 30 days following receipt of the notice from the aggrieved owner, the aggrieved owner may request that the Director require the violator to stop the violation and abate the damage to his property.

(d) If (i) the Director's investigation of the complaint indicates that the VESCP authority has not responded to the alleged violation as required by the VESCP, (ii) the VESCP authority has not responded to the alleged violation within 30 days from the date of the notice given pursuant to subsection A, and (iii) the Director is requested by the aggrieved owner to require the violator to cease the violation, then the Director shall give written notice to the VESCP authority that the Department intends to issue an order pursuant to subsection (e).

(e) If the VESCP authority has not instituted action to stop the violation and abate the damage to the aggrieved owner's property within 10 days following receipt of the notice from the Director, the Department is authorized to issue an order requiring the owner, permittee, person responsible for carrying out an approved erosion and sediment control plan, or person conducting the land-disturbing activities without an approved plan or required permit to cease all land-disturbing activities until the violation of the plan or permit has ceased or an approved plan and required permits are obtained, as appropriate, and specified corrective measures have been completed. The Department also may immediately initiate a program review of the VESCP.

(f) Such orders are to be issued after a hearing held in accordance with the requirements of the Administrative Process Act (§ [2.2-4000](#) et seq.), and they shall become effective upon service on the person by mailing with confirmation of delivery, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Director. Any subsequent identical mail or notice that is sent by the Department may be sent by regular mail. However, if the Department 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, it may issue, without advance notice or hearing, an emergency order directing such person to cease all land-disturbing activities on the site

immediately 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.

(g) If a person who has been issued an order or emergency order is not complying with the terms thereof, the Board may institute a proceeding in the appropriate circuit court for an injunction, mandamus, or other appropriate remedy compelling the person to comply with such order.

(h) Any person violating or failing, neglecting, or refusing to obey any injunction, mandamus, or other remedy obtained pursuant to subsection (g) shall be subject, in the discretion of the court, to a civil penalty not to exceed \$2,000 for each violation. Any civil penalties assessed by a court shall be paid into the state treasury.

For state law basis, see VA. CODE ANN. §62.1-44.15:58 and § 62.1-44.15:64 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-9 Right of entry.

The Department, the VESCP authority, where authorized to enforce this article, or any duly authorized agent of the Department or such VESCP authority 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.

In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, a VESCP 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 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.

For state law basis, see VA. CODE ANN. §62.1-44.15:60 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-10 Judicial appeals, penalties, injunctions and other legal actions.

(a) A final decision by the County, when serving as a VESCP authority under this article, shall be subject to judicial review, provided that 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.

(b) Violators of § [62.1-44.15:55](#), [62.1-44.15:56](#), or [62.1-44.15:58](#) shall be guilty of a Class 1 misdemeanor.

(c) Any person who has violated or failed, neglected, or refused to obey any regulation or order of the Board, any order, notice, or requirement of the Department or VESCP authority, any condition of a permit, or any provision of this article or associated regulation shall, upon a finding of an appropriate court, be assessed a civil penalty. If the County serving as a VESCP authority has adopted a uniform schedule of civil penalties as permitted by subsection K of § [62.1-44.15:54](#), such assessment shall be in accordance with the schedule. The VESCP authority or the Department may issue a summons for collection of the civil penalty. In any trial for a scheduled violation, it shall be the burden of the County or Department to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose. Any civil penalties assessed by a court shall be paid into the treasury of Campbell County, except that where the violator is the County itself, or its agent, or where the Department is issuing the summons, the court shall direct the penalty to be paid into the state treasury.

(d) The VESCP authority, the Department, or the owner of property that has sustained damage or which is in imminent danger of being damaged may apply to the circuit court in any jurisdiction wherein the land lies or other appropriate court to enjoin a violation or a threatened violation under § [62.1-44.15:55](#), [62.1-44.15:56](#), or [62.1-44.15:58](#) 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 VESCP, the Department, and the VESCP authority that a violation of the VESCP has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the VESCP, the Department, nor the VESCP authority has taken corrective action within 15 days to eliminate the conditions that have caused, or create the probability of causing, damage to his property.

(e) In addition to any criminal or civil penalties provided under this article, any person who violates any provision of this article may be liable to the VESCP authority or the Department, as appropriate, in a civil action for damages.

(f) Without limiting the remedies that 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 VESCP authority wherein the land lies or the Department. Any civil penalties assessed by a court shall be paid into the treasury of Campbell County, except that where the violator is the County itself, or its agent, or other VESCP authority, or where the penalties are assessed as the result of an enforcement action brought by the Department, the court shall direct the penalty to be paid into the state treasury.

(g) With the consent of any person who has violated or failed, neglected, or refused to obey any regulation or order of the Board, any order, notice, or requirement of the Department or VESCP authority, any condition of a permit, or any provision of this article or associated regulations, the Board, the Director, or VESCP authority may provide, in an order issued by the Board or VESCP authority against such person, for the payment of civil charges for violations in

specific sums, not to exceed the limit specified in subsection (f). Such civil charges shall be instead of any appropriate civil penalty that could be imposed under subsection (c) or (f).

(h) Upon request of a VESCP authority, the attorney for the Commonwealth shall take legal action to enforce the provisions of this article.

(i) Compliance with the provisions of this article shall be prima facie evidence in any legal or equitable proceeding for damages caused by erosion or sedimentation that all requirements of law have been met and the complaining party must show negligence in order to recover any damages.

For state law basis, see VA. CODE ANN. §62.1-44.15:62 and §62.1-44.15:63 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-11 Financial Surety

(a) All control measures required by the provisions of this article shall be undertaken at the expense of the owner or his agent; and prior to the issuance of any permit the owner or his agent shall execute and file with the VESCP authority an agreement and a reasonable performance bond with surety, approved by the VESCP authority, cash escrow, letter of credit, or such other legal arrangement acceptable to the VESCP authority to ensure that measures could be taken by the authority at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him 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 estimated cost of the conservation action. If the VESCP authority takes such conservation action upon such failure by the permittee, the agency may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the security held.

(b) It shall be the responsibility of the owner or his agent to request from the county, in writing, the release of the bond, cash escrow letter of credit or other legal arrangement. The county shall perform a final inspection to verify the completeness of the project in accordance with the approved plan. Upon the final inspection, a determination will be made if the project is eligible for termination of the financial surety.

(c) Adequate site stabilization in compliance with the approved plan shall be determined by the plan-approving authority upon inspection of the development. Such measures

shall meet or exceed the requirements contained in the Virginia Erosion and Sediment Control Handbook, as promulgated and amended from time to time by the Virginia Soil and Water Conservation Board.

(d) Upon completion and adequate stabilization of all other measures for control of erosion, sedimentation, and/or stormwater runoff, the developer and project designer shall certify in writing that such measures were built according to design criteria approved by the plan approving authority and applicable laws, regulations, standards and specifications.

For state law basis, see VA. CODE ANN. §62.1-44.15:57 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-12. Fees

Any VESCP authority that administers an erosion and sediment control program may charge applicants a reasonable fee to defray the cost of program administration. Such fee may be in addition to any fee charged for administration of a Virginia Stormwater Management Program, although payment of fees may be consolidated in order to provide greater convenience and efficiency for those responsible for compliance with the programs. A VESCP authority shall hold a public hearing prior to establishing a schedule of fees. The fee shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and the VESCP authority's expense involved.

A schedule of fees shall be set out in the Appendix of Fees Imposed under the Campbell County Code of 1988, which may be revised from time to time by duly adopted ordinance of the Board of Supervisors, and which is incorporated herein by reference.

For state law basis, see VA. CODE ANN. §62.1-44.15:54 J (Repl. Vol. 2019).

Editor's note.—Effective January 1, 1997, the Campbell County Board of Supervisors adopted an uncodified ordinance setting a schedule of fees, set out in the Appendix of Fees Imposed under the Campbell County Code of 1988. Such fee schedule may be revised from time to time by the Board via uncodified ordinances. A current schedule of fees shall be on file and available to the public in the office of administrator of County Erosion and Sedimentation Control Program. Effective June 17, 2002, the Board of Supervisors adopted provisions imposing a land-disturbing permit fee.

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

ARTICLE III. STORMWATER MANAGEMENT

Sec. 8-13 Stormwater permit requirement; exemptions.

(a) Except as provided herein, a person shall not conduct any land-disturbing activity until he has submitted a permit application to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required, and, after July 1, 2014, a stormwater management plan, or an executed agreement in lieu of a stormwater management plan and has obtained VSMP authority approval to begin land disturbance.

(b) Notwithstanding any other provisions of this ordinance, 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 Title 45.1 of the Code of Virginia;

(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 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 Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;

(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 10,000 square feet of land area except for activities that are part of a larger common plan of development or sale that is 10,000 square feet or greater of disturbance; however, the VSMP Authority may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply..

(5) Discharges to a sanitary sewer or combined sewer system;

(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;

(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 VSMP 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.

For state law basis, see VA. CODE ANN. §62.1-44.15:34 (Repl. Vol. 2019).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT revised subsection (a) to clarify requirements for permit applications and deleted language related to the Chesapeake Bay Preservation Act, which is inapplicable in this County from (b)(3) and (b)(4).]

[THE DECEMBER 2, 2014 AMENDMENT added “if such statement is required” and “executed” in (a), substituted “10,000 square feet” for “one acre” twice and substituted “except for” for “or” in (b)(4).]

Sec. 8-14 Stormwater management program established; submission and approval of plans.

(a) Campbell County hereby establishes a Virginia stormwater management program for land-disturbing activities and adopts the applicable Regulations that specify standards and specifications for VSMPs promulgated by the State Board. The Campbell County Board of Supervisors hereby designates the County Administrator, or designee, as the Administrator of the Virginia stormwater management program.

(b) No VSMP 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, if such statement is required;

(2) An erosion and sediment control plan approved in accordance with the provisions set forth in Chapter 8 of the Code of Campbell County.

(3) A stormwater management plan that meets the requirements of Section 8-16 of this Ordinance, or an agreement in lieu of a stormwater management plan.

(c) No VSMP authority permit shall be issued until evidence of general permit coverage is obtained.

(d) No VSMP authority permit shall be issued until the fees required to be paid pursuant to Section 8-24, are received, and a reasonable performance bond required pursuant to Section 8-25 of this Ordinance has been submitted. 9VAC25-870-750A

(e) No VSMP 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 permits shall be issued for a property unless a VSMP authority permit has been issued by the Administrator.

For state law basis, see VA. CODE ANN. §62.1-44.15:27 (Repl. Vol. 2019), §62.1-44.15:34 (Repl. Vol. 2019). See also Virginia Admin. Code §9VAC25-870-54.A, 9VAC25-870-20, 9VAC25-870-59 and 9VAC25-880-70

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE DECEMBER 2, 2014 AMENDMENT inserted “if such statement is required” in (b)(1), and “or an agreement in lieu of a stormwater management plan” in (b)(3).]

Sec. 8-15 Stormwater pollution prevention plan; contents of plans.

(a) The Stormwater Pollution Prevention Plan (SWPPP) shall include the following as set forth in Section 9VAC25-870-54 and 9VAC25-880-70, Section II of the general permit.

- (1) An approved erosion and sediment control plan.
- (2) An approved stormwater management plan.
- (3) A pollution prevention plan for regulated land disturbing activities.

(4) A description of any additional control measures necessary to address a TMDL as specified in the Administrative Guidance Manual.

(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.

For state law basis, see Virginia Admin. Code §9VAC25-870-54. See also Virginia Admin. Code §9VAC25-880-70.

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT corrected a typographical error in (a)(2).]

Sec. 8-16 Stormwater management plan; contents of plan.

(a) A stormwater management plan shall be developed and submitted to the VSMP authority. The plan shall be implemented as approved or modified by the VSMP authority and shall be developed accordingly, as required by the VSMP Permit Regulations (9VAC25-870-55.A) and the Administrative Guidance Manual.

(1) A stormwater management plan for land disturbing activity shall apply the stormwater management technical criteria set forth in this part of the entire land disturbance activity, per Section 8-19 of this ordinance. The construction of a single family detached residential structure, within or outside a common plan of development or sale, disturbing equal to or greater than one acre, may be eligible for an “Agreement in Lieu of a Stormwater Management Plan.” This agreement shall not require a registration statement, nor the Department’s portion of the state permit for coverage under the General Permit for Discharges of Stormwater from Construction Activities.

(2) Individual lots in new residential, commercial or industrial developments shall not be considered separate land disturbing activities.

(3) A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.

(b) The stormwater management plan shall contain the following:

(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 pre-development 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;

(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 and a note that states the stormwater management meets the requirements set forth in the VSMP Permit Regulations (9VAC25-870-55.B) and the Administrative Guidance Manual;

(5) Information on the proposed stormwater management facilities, including:

- (i) The type of facilities;
- (ii) Location, including geographic coordinates;
- (iii) Acres treated; and
- (iv) 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 Section 8-20 of this Ordinance and the Administrative Guidance Manual.

(8) A map or maps 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 but not limited to planned locations of utilities, roads, and easements.

(9) If an operator intends to meet the water quality and/or quantity requirements set forth in Section 8-19 of this Ordinance through the use of off-site compliance options, where applicable, then a letter of availability 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 § 62.1-44.15:27 of the Code of Virginia.

(10) If payment of a fee is required with the stormwater management plan submission by the VSMP Authority, the fee and the required fee form must have been submitted.

(c) Elements of the stormwater management plans that include activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately sealed and signed by a professional engineer, architect, surveyor, or landscape architect registered in the Commonwealth of Virginia pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

(d) A construction record drawing for permanent stormwater management facilities shall be submitted to the VSMP authority in accordance with 9VAC25-870-108 and 9VAC25-870-112, except for stormwater management facilities for which maintenance agreements are not required pursuant to Section 8-20. The construction record drawing shall be appropriately sealed and signed by a professional engineer, architect, surveyor, or landscape architect registered in the Commonwealth of Virginia, certifying that the stormwater management facilities have been constructed in accordance with the approved plan.

For state law basis, see Virginia Admin. Code §9VAC25-870-55 (2014). See also Virginia Admin. Code §9VAC25-880-70 (2014).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT added the second and third sentences to subsection (a)(1).]

[THE DECEMBER 2, 2014 AMENDMENT deleted “but less than five acres” from the second sentence of (a)(1).]

Sec. 8-17 Pollution prevention plan; contents of plan.

(a) Pollution Prevention Plans shall be developed, implemented, and updated as necessary and must detail the design, installation, implementation, and maintenance of effective pollution prevention measures 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:

(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.

For state law basis, see Virginia Admin. Code §9VAC25-870-56 (2013).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-18 Review of stormwater management plan.

(a) The VSMP Authority shall review stormwater management plans and shall approve or disapprove a stormwater management plan according to the following:

(1) The Administrator or any duly authorized agent of the Administrator shall determine the completeness of a plan in accordance with Section 8-16 of this Ordinance, and shall notify the applicant, in writing, of such determination, within 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 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 15 calendar days, then plan shall be deemed complete and the Administrator shall have 60 calendar days from the date of submission to review the plan.

(3) For plans not approved by the Administrator, all comments shall be addressed by the applicant within 90 calendar days. Plans that are not resubmitted within this time period will be subject to a new application fee.

(4) The Administrator shall review any plan that has been previously disapproved, within 45 calendar days of the date of resubmission.

(5) During the review period, the plan shall be approved or disapproved and the decision communicated in writing to the Applicant. If the plan is not approved, the reasons for not approving the plan shall be provided in writing to the Applicant. Approval or denial shall be based on the plan's compliance with the requirements of this Ordinance and the Administrative Guidance Manual.

(6) If a plan meeting all requirements of this Ordinance is submitted and no action is taken within the time provided above 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 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 8-20.

For state law basis, see Virginia Admin. Code §9VAC25-870-108 (2013).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT added “or any duly authorized agent of the Administrator” in (a)(1), substituted “60 calendar days” for “45 calendar days” in (a)(2), and corrected a cross-reference in (c).]

Sec. 8-19 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, Campbell County hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part II B of the Regulations, as amended, expressly to include 9VAC25-870-62; 9VAC25-870-63; 9VAC25-870-65; 9VAC25-870-66; 9VAC25-870-69; 9VAC25-870-72; 9VAC25-870-74; 9VAC25-870-76; 9VAC25-870-85, 9VAC25-870-92, and 9VAC25-870-93 thru 99, which shall apply to all land-disturbing activities regulated pursuant to this ordinance, except as expressly set forth in this Chapter. Reference the Administrative Guidance Manual

(b) Any land-disturbing activity shall be considered grandfathered by the VSMP

authority and shall be subject to Part II C technical criteria of the VSMP regulation provided:

(1) A valid proffered or conditional zoning plan, preliminary or final subdivision plat, preliminary or final site plan or zoning with a plan of development, or any document determined by the County as being equivalent thereto, (i) was approved by the County prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-870-10, (iii) will comply with Part II c technical criteria of the VSMP Regulation, 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 volume or rate of runoff;

(2) A state permit has not been issued prior to July 1, 2014.

(3) Land disturbance did not commence prior to July 1, 2014.

(c) Locality, state, and federal projects shall be considered grandfathered by the VSMP authority and shall be subject to the Part II C technical criteria of the VSMP Regulation provided:

(1) There has been an obligation of local, state, or federal funding, in whole or in part, prior to July 1, 2012, or for which the Department has approved a stormwater management plan prior to July 1, 2012.

(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.

(d) Land-disturbing activities grandfathered under Subsections B and C of this section shall remain subject the Part II C technical criteria of the VSMP regulation for one additional state permit cycle. After such time, portions of the project not under construction shall become subject to any new technical criteria adopted by the board.

(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 Part II C of the Regulations, as adopted by the County in Sec. 8-19.

(f) The Administrator may grant exceptions to the technical requirements of Part II B or Part II C of the Regulations, 9VAC25-870-122 provided that (i) the exception is the minimum necessary to afford relief, (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this Ordinance are preserved, (iii) granting the exception will not confer any special privileges that are denied in other similar circumstances, and (iv) exception requests are not based upon conditions or circumstances that are self- imposed or self-created. Economic hardship alone is not sufficient reason to grant an exception from the requirements of this Ordinance.

(1) Exceptions to the requirement that the land-disturbing activity obtain required VSMP authority permit shall not be given by the Administrator, nor shall the Administrator approve the use of a BMP not found on the Virginia Stormwater BMP Clearinghouse Website, or any other control measure duly approved by the Director.

(2) Exceptions to requirements for phosphorus reductions shall not be allowed unless offsite options otherwise permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(g) Nothing in this Section shall preclude an operator from constructing to a more stringent standard at their discretion.

For state law basis, see Virginia Admin. Code §9VAC25-870-48 (2013). See also Virginia Admin Code §§9VAC25-870-62 (2013); 9VAC25-870-63 (2013); 9VAC25-870-65 (2014); 9VAC25-870-66 (2014); 9VAC25-870-69 (2013); 9VAC25-870-72 (2013); 9VAC25-870-74 (2013); 9VAC25-870-76 (2013); 9VAC25-870-85 (2013); and 9VAC25-870-92 (2013); 9VAC25-870-93 thru 99 (2013)

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT deleted “not” from “shall be subject to” in (b) and corrected the numbering of the subsections.]

Sec. 8-20 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, both commercial and individual residential lots 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 stormwater management facilities designed to treat stormwater runoff 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 (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

For state law basis, see Virginia Admin. Code §9VAC25-870-58 and 9VAC25-870-112, and 9VAC25-870-114 (2013).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-21 Monitoring and inspections.

(a) 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;
- (3) Installation of stormwater management facilities/practices. These inspections shall be coordinated in advance with Office of Environmental Management.

(4) Development, updating, and implementation of a pollution prevention plan;
and

(5) Development and implementation of any additional control measures necessary to address a TMDL.

(b) The Administrator has the right, 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. In the event the Administrator, or his agent shall be denied access to property, the Administrator may present sworn testimony to a magistrate or court of competent jurisdiction and if such sworn testimony establishes probable cause that a violation of this ordinance has occurred, request that the magistrate or court grant the Administrator an inspection warrant to enable the director of public works or his agent to enter the property for the purpose of determining whether a violation of this ordinance exists. The Administrator shall make a

reasonable effort to obtain consent from the owner or occupant of the subject property prior to seeking the issuance of an inspection warrant under this section. It shall be a violation of this section for any person to deny the Administrator access to any property after the director of public works or his agent has obtained an inspection warrant from a magistrate or a court of competent jurisdiction for the inspection of such property. Nothing herein shall be construed to authorize Administrator to enter or inspect the interior portions of any dwelling or structure situated on such property unless that inspection be reasonably necessary and directly related to verifying the presence and character of a stormwater control mitigation system or control measure that the owner of the property claims to be installed therein.

(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) The Administrator may require every VSMP authority permit applicant or permittee, or any such person subject to VSMP authority permit requirements under this Ordinance, 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 Ordinance.

(e) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance and the recorded maintenance agreement shall be conducted by the Owner and at the Owner’s cost pursuant to the County’s adopted and State Board approved inspection program, and shall occur within the minimum frequencies shown in Table 1-11-1 following approval of the final construction record report for each stormwater facility. 9VAC25-870-114

Table 1-11-1

BMP Classification	BMP Type	Minimum Inspection Schedule	Notes
1	Rooftop Disconnection	Every 5 Years	Owner shall inspect and provide documentation as per the requirements found on the Virginia Stormwater BMP Clearinghouse Website and the Administrative Guidance Manual for BMPs within classification 2, 3, and 4.
1	Sheetflow to Vegetated Filter or Conserved Open Space	Every 5 Years	
1	Grass Channel	Every 5 Years	
1	Soil Amendments	Every 5 Years	
2	Permeable Pavement	Annually	
2	Infiltration	Annually	

2	Bioretention	Annually	
2	Dry Swale	Annually	
2	Wet Swale	Annually	
2	Filtering Practice	Annually	
2	Constructed Wetland	Annually	
2	Wet Pond	Annually	
2	Extended Detention	Annually	
3	Vegetated Roof	Twice per year (Spring/Fall)	
3	Rainwater Harvesting	Twice per year (Spring/Fall)	
4	Manufactured/ Other BMP	Yearly or per manufacturer recommendations, whichever is more frequent.	Owner shall inspect and provide documentation according to manufacturer's guidelines and the Administrative Guidance Manual.

(f) The owner shall furnish to the Administrator an inspection report for BMPs within classifications 2, 3, and 4 as provided in Table 1-11-11 prepared by a qualified inspector within the timeframe listed in Table 1-11-1. This report shall include, but not be limited to, the items listed in Table 1-11-1, current photographs of the BMP, and a summary of the current BMP condition and any recommendations for improvements, if necessary.

(g) Qualified inspection personnel include professional engineer, architect, landscape architect, or land surveyor registered in the Commonwealth of Virginia or project inspector for SWM or combined administrator for SWM who have met the certification requirements of 9VAC25-850-50.

(h) Post-construction inspections of stormwater management facilities required by the provisions of this Ordinance shall be conducted by the Administrator pursuant to the County's adopted and State Board approved inspection program, and shall occur, at a minimum, at least once every five (5) years.

For state law basis, see VA. CODE ANN. § 62.1-44.15:39 and 62.1-44.15:40 (Repl. Vol. 2019); Virginia Admin. Code §9VAC25-870-114 (2013).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-22 Hearings and appeals.

(a) The VSMP authority shall ensure that any permit applicant, permittee, or person

subject to state permit requirements under the Act aggrieved by any action of the VSMP authority taken without a formal hearing, or by inaction of the VSMP authority, shall have a right to a hearing pursuant to this Article and shall ensure that all hearings held under this chapter shall be conducted as described in subsection (c) below. The provisions of the Administrative Process Act (§ [2.2-4000](#) et seq.) shall not apply to decisions rendered by localities but appeals shall be conducted in accordance with local appeal procedures.

(b) The aggrieved permit applicant, permittee, or person subject to state permit requirements under the Act may demand in writing a formal hearing, provided a petition requesting such hearing is filed with the VSMP Authority within 30 days after notice of such action..

(c) The Campbell County Planning Commission shall hold hearings under this Article in a manner consistent with [VA. CODE ANN. §62.1-44.26](#) (Repl. Vol. 2019).

(1) Formal hearings held under this section shall be conducted at a regular or special meeting of the Planning Commission, or by at least one member of the Planning Commission designated by the Chairman of the Planning Commission to conduct such hearings on behalf of the Planning Commission at any other time and place authorized.

(2) A verbatim record of the proceedings of such hearings shall be taken and filed with the Planning Commission. Depositions may be taken and read as in actions at law.

(3) The Planning Commission shall have the 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 Planning Commission in the manner prescribed in [VA. CODE ANN. §2.2-4022](#). Witnesses who are subpoenaed shall receive the same fees and mileage as in civil actions.

(d) Appeals to decisions made by the Campbell County Planning Commission are subject to judicial review by the Campbell County Circuit Court, provided an appeal is filed within thirty (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. Decisions of the Circuit Court shall be subject to review by the Virginia Court of Appeals.

For state law basis, see [VA. CODE ANN. § 62.1-44.15:44](#), § [62.1-44.15:45](#) and § [62.1-44.15:46](#); § [62.1-44.26](#) (Repl. Vol. 2019); see also [Va. Admin. Code 9VAC25-870-118](#).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT completely rewrote the section, giving appeals authority to the Planning Commission and conforming the section to the state code.]

[THE DECEMBER 2, 2014 AMENDMENT added (d).]

Sec. 8-23 Enforcement.

(a) If the Administrator determines that there is a failure to comply with the VSMP 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, 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 Sec. 8-23 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 Administrative Guidance Manual. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the County land records, 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 8-23.

(b) In addition to any other remedy provided by this Ordinance, if the 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 the Administrative Guidance Manual.

(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 Administrator may be compelled in a proceeding instituted in by the Circuit Court of the locality by the Locality to obey same and to comply therewith by injunction, mandamus or other

appropriate remedy.

(d) Any person who violates any provision of this Ordinance or who fails, neglects, or refuses to comply with any order of the Administrator, shall be subject to a civil penalty not to exceed \$32,500 for each violation within the discretion of the court. Each day of violation of each requirement shall constitute a separate offense.

(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 Section 9VAC 25-880-70 of the general permit.

(2) The 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 Section, 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 County shall be paid into the treasury of the Campbell County to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the County and abating environmental pollution therein in such manner as the court may, by order, direct.

(e) 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 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.

For state law basis, see VA. CODE ANN. § 62.1-44.15:37, § 62.1-44.15:49, § 62.1-44.15:38 (Repl. Vol. 2019) and Va. Admin. Code 9VAC25-870-116.

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

Sec. 8-24 Fees.

(a) Fees to cover costs associated with implementation of a VSMP related to land disturbing activities (excluding single family construction), for issuance of general permit coverage and VSMP authority permits shall be imposed in accordance with the VSMP Permit Regulations 9VAC25-870-820, 9VAC25-870-750.A, VA. CODE ANN. §62.1-44.15:28 and the Administrative Guidance Manual. The applicable fees designated to the VSMP authority shall be paid by the Applicant directly to the Administrator at the initial plan submittal; fees designated to the Department shall be paid by the Applicant directly to the VSMP authority. A schedule of fees shall be set out in the Appendix of Fees Imposed under the Campbell County Code of 1988, an uncodified ordinance which may be revised from time to time by duly adopted ordinance of the Board of Supervisors, and which is incorporated herein by reference.

(1) Construction of single family detached residential structure shall not require a registration statement

(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 the VSMP Permit Regulations 9VAC25-870-825 and the Administrative Guidance Manual and shall be paid directly to the Administrator.

If the general permit modifications result in changes to stormwater management plans that require additional review by Campbell County such reviews shall be subject to the fees set out in the VSMP Permit Regulations 9VAC25-870-825 and the Administrative Guidance Manual. 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 the VSMP Permit Regulations 9VAC25-870-820 and the Administrative Guidance Manual. These fees shall be paid directly to the Administrator.

(c) The annual permit maintenance shall be imposed in accordance with the VSMP Permit Regulations 9VAC25-870-830 and the Administrative Guidance Manual, 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.

General permit coverage maintenance fees shall be paid annually to Campbell County, 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.

(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 8-29(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 8-2 of this Ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the 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 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 9VAC25-870-770 and VA. CODE ANN. §58.1-15 (Repl. Vol. 2017) 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. Campbell County shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

For state law basis, see VA. CODE ANN. §§ 62.1-44.15:28 (Repl. Vol. 2019) and Va. Admin. Code §§ 9VAC25-870-820 (2014), 9VAC25-870-750.A (2013), 9VAC25-870-825 (2014), 9VAC25-870-830 (2014), and 9VAC25-870-770 (2013). See also 15.2-2114 (Repl. Vol. 2018).

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]

[THE JULY 1, 2014 AMENDMENT added “(excluding single family construction)” to (a) and added subsection (a)(1).]

Sec. 8-25 Performance bond

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 County attorney and Administrator, or designee, to ensure that measures could be taken by Campbell County 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 Campbell

County 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.

Commercial and non residential projects that require a stormwater maintenance agreement shall provide a reasonable and permanent stormwater management maintenance bond. This bond shall be issued by a licensed bonding company and shall be submitted prior to the termination of the construction performance bond. The authority may increase the bond amount from time to time to allow for inflation and the increase in construction costs. The bond may only be increased at the time when the bond is scheduled for renewal. The Authority shall notify, in writing the bonding company as well as the owner, the reason(s) for increase and increased bond amount. The bond shall automatically renew and shall not be terminated without prior written authorization from the Authority.

For state law basis, see VA. CODE ANN. §§ 62.1-44.15:34.A (Repl. Vol. 2019) and Va. Admin. Code § 9VAC25-870-104.

[THE MARCH 4, 2014 ACT adopted this section, to be effective July 1, 2014.]