



MOTION: GRAHAM

**June 25, 2024
Regular Meeting
Ordinance No. 24-19**

SECOND: FRYE

RE: Amending Fredericksburg City Code, Chapter 72 (Unified Development Ordinance) at § 72-20.6, "Erosion and Sediment Control Program and Virginia Stormwater Management Program Administrator"; § 72-34.5, "Chesapeake Bay Preservation Overlay District"; § 72-54.3 "Stormwater"; and § 72-84, "Definitions", to Consolidate and Modernize the Erosion and Sediment Control and Stormwater Provisions Consistent with the Code of Virginia

ACTION: APPROVED: Ayes: 7; Nays: 0

FIRST READ: June 25, 2024

SECOND READ: June 25, 2024

Sec. I. Introduction.

In 2016, the Virginia General Assembly passed legislation which required the Virginia Department of Environmental Quality (DEQ) to consolidate the stormwater management and erosion and sediment control programs. This effort resulted in the State Water Control Board adopting consolidated regulations for the two programs in 2023. On or before the effective date of the new regulations (July 1, 2024), local governments are required to update their local stormwater and erosion and sediment control ordinances to conform to the updated authorities. By statute, local ordinances may be more stringent than the state criteria, but unless those provisions were adopted prior to 2013, the more stringent provisions must be justified and communicated to DEQ.

By separate proposed ordinance, the existing provisions of the Stormwater (Chapter 38, Article IV) and Erosion and Sediment Control (Chapter 78, Article V), would be repealed and replaced. The following proposed amendments to the Unified Development Ordinance (UDO) update cross references and other corresponding provisions associated with the ordinance consolidation. In addition, additional optional changes are proposed to modernize some of the UDO language to aid in plan review and administration of the Virginia Erosion and Stormwater Management Program (VESMP).

Sec. II. City Code amendment.

It is hereby ordained by the Fredericksburg City Council that

- 1. City Code § 72-20.6, "Erosion and Sediment Control Program and Virginia Stormwater Management Program Administrator," be amended as indicated to reflect consolidation of stormwater and erosion and sediment control programs.**

72-20.6 Virginia Erosion and Sediment Control Program and Virginia Stormwater Management Program Administrator.

A. Established. The City Manager shall appoint a Stormwater Administrator for approval of erosion and sediment control and stormwater management plans, and this officer may also hold one or more other City offices. The City Manager may authorize such officer to employ one or more deputies and assistants to aid in carrying out his/her powers and duties, consistent with Code of Virginia § 15.2-1502.

B. Authority. The Stormwater Administrator shall have all necessary authority on behalf of the City, for administration and enforcement of the City's Erosion and Sediment Control, pursuant to the Code of Virginia, § 62.1-44.15:51 ~~62.1-44.15:24~~ et seq., and Stormwater Management Programs, pursuant to Code of Virginia, § 62.1-44.15:24 ~~§ 62.1-44.15:51~~ et seq.

- 2. Various provisions of City Code § 72-34.5, "Chesapeake Bay Preservation Overlay District," are amended where indicated to add the underlined language and delete the language shown in strikethrough as follows:**

§ 72-34.5 Chesapeake Bay Preservation Overlay District.

...

G. Facilities permitted in resource protection areas.

- (3) **Redevelopment.** Redevelopment on isolated redevelopment sites outside of locally designated "intensely developed areas" sites shall be permitted only if:
 - (a) There is no increase in the amount of impervious cover;
 - (b) There is no further encroachment within the RPA; and
 - (c) It conforms to the stormwater management requirements in § 72.54.3, Stormwater and applicable provisions of Chapter 38, Article IV (Virginia Erosion and Stormwater Management Program).

...

(5) **Flood control and stormwater management facilities.** Flood control and stormwater management facilities that drain or treat water from multiple development projects or from a significant portion of a watershed may be allowed in the RPA, provided that the following

conditions are met:

- (a) The Stormwater Administrator has conclusively established that the location of the facility within the RPA is the optimum location;
- (b) The size of the facility is the minimum necessary to provide necessary flood control, stormwater management, or both;
- (c) The facility is consistent with the City's Erosion and Stormwater Management Program and has been approved by the DEQ Local Governments Assistance Program Liaison. ~~stormwater management program that has been approved by CBLAB as a Phase I program modification;~~
- (d) All applicable permits for construction have been obtained from the appropriate state and federal agencies;
- (e) The Stormwater Administrator has approved the project prior to construction; and
- (f) Routine maintenance will be performed to assure that these facilities continue to perform as designed.

...

H. Development standards in the CBPO. The following additional design standards shall be required and provided for in the site plan and shall apply to all development and redevelopment within the CBPO District:

...

(2) Indigenous vegetation shall be preserved to the maximum extent practicable, consistent with the use and development permitted and in accordance with the current edition of the Virginia Erosion and Sediment Control Handbook (available for use until July 1, 2025), or, the Virginia Stormwater Management Handbook, Version 1.0 (or most current version) of the Virginia Department of Conservation and Recreation Environmental Quality as follows: . . .

...

(7) Construction, installation, operation, and maintenance of electric, natural gas, fiber-optic, and telephone transmission lines, railroads, and public roads and their appurtenant structures shall be constructed and maintained in accordance with:

(a) Regulations promulgated pursuant to the Erosion and Sediment Control Law (~~§ 10.1-560~~ 62.1-44.15:51 et seq., Code of Virginia, as amended);

(b) The Stormwater Management Act (~~§ 10.1-603.1~~ 62.1-44.15:51 et seq., Code of Virginia, as

amended);

(c) An erosion and sediment control plan and a stormwater management plan approved by the ~~Virginia Department of Conservation and Recreation~~ Stormwater Administrator and consistent with City Code § 38-408; or

(d) Local water quality protection criteria at least as stringent as the above state requirements;

3. Various provisions of City Code § 72-54.3, "Stormwater," within the Unified Development Ordinance are amended where indicated to add the underlined language and delete the language shown in strikethrough as follows:

B. Storm drainage requirements.

...

(9) The post-development stormwater runoff rate of flow and characteristics shall replicate, as nearly as practicable the existing pre-development runoff characteristics and site hydrology of the development site. The basic design criteria for stormwater management facilities employs the ten-year ~~frequency~~, twenty-four ~~two~~-hour duration storm event to determine pre- and post-development flows. Required storage shall be computed using unit hydrograph methods. Emergency spillways shall be designed to pass the one-hundred-year frequency (also known as the 1% annual exceedance probability), with a two-foot freeboard easement added to the computed water level. Hydrographs, spillway design, embankment design and flow computations shall be submitted with the preliminary plan.

...

(14) To assure long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff, recorded stormwater management and nonpoint source pollution control facilities management agreements and deeds of easement shall be recorded with subdivision plats or before land disturbance or building permits are issued for improvements on site plans. Such documents shall include a drawing or plat showing the facilities, and ~~metes and bounds~~ boundary location of the easement, a maintenance agreement obligating the owner to provide and maintain appropriate landscaping and to provide regular or periodic maintenance of the facilities and the best management practices used therein, and such other provisions as the Stormwater Administrator (see ~~72-20.6-38-412~~) may deem necessary in order to meet the requirements of this section and to ensure public health and safety.

(15) Floodplain studies shall be prepared for drainage areas exceeding 100 acres. The one-hundred-year rainfall curve shall be used, with an eighteen-inch freeboard added to the computed water level. Floodplain computations shall be performed using the stand-step method or an equivalent method to achieve a balance of energy. Cross sections, stream profiles and support calculations shall be submitted with the preliminary plan.

C. Erosion and sediment control. For the purpose of alleviating the adverse effects of on- and off-site erosion, siltation and sedimentation before and after development, adequate controls of both a temporary and permanent nature shall be provided. No permit shall be issued by the City authorizing any land disturbing activity, until an erosion and sediment control plan has been submitted to the Stormwater Administrator and approved in accordance with the requirements of the City's Virginia Erosion and Sediment Control Stormwater Management Program ~~(VESCP)~~ (VESMP).

4. Various provisions of City Code § 72-84, "Definitions," within the Unified Development Ordinance are amended where indicated to add the underlined language and delete the language shown in strikethrough as follows:

...

~~BEST MANAGEMENT PRACTICE (BMP)~~

~~— A practice or combination of practices determined by a state, regional or City agency to be the most effective and practical means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals of this chapter.~~

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

...

LAND DISTURBING ACTIVITY

Any movement of earth or substrate, manually or mechanically that may result in soil erosion or has the potential to change its runoff characteristics, including but not limited to any modification of existing grade by dredging, demolition, excavation or fill, grading, scraping, vegetation removal, landscaping, coring, well drilling, pile driving, undergrounding utility lines, trenching, bulldozing, sheeting, shoring and excavation for laying or removing foundations, pilings or other purposes.

...

NON-POINT SOURCE POLLUTION AND NONTIDAL WETLANDS

~~Pollution consisting of constituents such as sediment, nutrients, and organic and toxic substances from diffuse sources, such as runoff from agriculture and urban land development.~~

NONPOINT SOURCE POLLUTION

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

...

PARKING LOT (COMMERCIAL)

An area not within a building where license and operable motor vehicles may be stored for the purpose of temporary, daily or overnight off-street parking. For the purpose of § 72-59, Signage, a parking lot includes automobile and truck display lots, lots for the display of other types of vehicles, lots for the storage of vehicles and commercial parking lots. For the purposes of the stormwater management provisions of § 72-~~54.3~~ 34.4, Stormwater management, parking lot shall mean all parking areas, parking lot travel lanes, and at-grade loading areas.

Sec. III. Effective date.

This ordinance shall be effective July 1, 2024.

Votes:

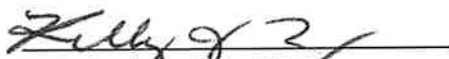
Ayes: Devine, Frye, Duffy, Gerlach, Graham, Holmes, Mackintosh

Nays: None

Absent from Vote: None


Absent from Meeting: None

Approved as to form:


Kelly Lackey, City Attorney

Clerk's Certificate

I, the undersigned, certify that I am Deputy Clerk of Council of the City of Fredericksburg, Virginia, and that the foregoing is a true copy of Ordinance No. 24-19 duly adopted at a meeting of the City Council meeting held June 25, 2024 at which a quorum was present and voted.



Brenda T. Martin
Deputy Clerk of Council