



## Legislation Text

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**File #:** 13-220, **Version:** 1

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### **SUBJECT:**

Request to set a public hearing for Stormwater Management ordinance amendments.

### **EXPLANATION AND SUMMARY :**

The Town of Vienna must amend the Town Code to comply with the new requirements contained in Virginia Stormwater Management Program (VSMP) regulations. Final changes must be adopted by the Town Council no later than May 15, 2014 with a “go-live” date of July 1, 2014. The Planning Commission held a Public Hearing on this matter on February 26<sup>th</sup>, 2014 and subsequently has recommended Council approve the proposed amendments. The following is a summary of how the new regulations will affect the Town’s stormwater management program.

#### ***Consolidated Stormwater Requirements***

- VSMP Requirement - A major focus of the VSMP regulations is to better integrate stormwater quality and quantity requirements.
- Existing Program - Water quantity is currently addressed through the Town’s erosion and sediment control requirements (Chapter 23, Article 2). Water quality is addressed in Article 21.1 of the Zoning Ordinance (Chesapeake Bay Preservation Areas).
- Amended Program - The recommended Town Code amendments consolidate all stormwater requirements into new Chapter 23, Article 3 “Stormwater Management.”

#### ***Administration of the State General Permit***

- VSMP Requirement - The Town will be responsible for administering the State General Permit for Discharges from Construction Activities. The purpose is to streamline the review process, reduce redundancy, and enhance enforcement. The General Permit requires the property owner to develop a Stormwater Pollution Prevention Plan (SWPPP), which consists of a stormwater management plan, erosion and sediment control plan, and pollution prevention plan.
- Existing Program - The Town already enforces the stormwater management plan and the erosion and sediment control plan.
- Amended Program - The Town will be responsible for enforcing the pollution prevention plan. The pollution prevention plan focuses on good housekeeping activities such as minimizing the discharge of pollutants from equipment, vehicles, and other construction activities. In recognition of increased administrative and inspection costs, the Town will collect the General Permit fees. The Town will keep 72% and provide the remainder to DEQ.

#### ***New Water Quality Standards***

- VSMP Requirement - The VSMP regulations increase water quality technical standards for both new development and redevelopment.

- Existing Program - The Town's current water quality requirements apply only to the Town's Chesapeake Bay Preservation Area (CBPA). New development is required to keep phosphorus loads below the watershed average (3.53 lbs/acre/year for the Wolf Trap Creek and 3.61 lbs/acre/year for the Bear Branch and Piney Branch). Redevelopment must reduce phosphorus loads by 10%.
- Amended Program - The new standard applies Town-wide. New development must reduce phosphorus loads to no more than 0.41 lbs/acre/year. This is based on ensuring that any new development is "neutral" in terms of meeting the pollutant reduction requirements of the Chesapeake Bay TMDL. Redevelopment one acre or more must reduce phosphorus loads by 20%. Redevelopment less than one acre must still reduce phosphorus by 10%.
- Note - Because the Town's CBPA is not jurisdiction-wide, the Town has the option of exempting land disturbing activities outside of the CBPA that are under one acre from the new water quality requirements. However, the Town will eventually need to make up the increase in pollutant loads to meet the Chesapeake Bay TMDL requirements. As a result, the proposed amendments require water quality controls for all land disturbing activities over 2,500 square feet Town-wide.

### ***New Water Quantity Standards***

- VSMP Requirement - The VSMP regulations require more stringent water quantity controls. The requirements favor infiltration of stormwater into the soil as opposed to detention.
- Existing Program - The Town's current water quantity standards are contained in the erosion and sediment control requirements (Chapter 23, Article 2).
- Amended Program - Standards from erosion and sediment control are replaced by new technical criteria in Chapter 23, Article 3 "Stormwater Management."

### ***Off-Site Nutrient Compliance Options***

- VSMP Requirement - The VSMP regulations allow smaller projects, at their discretion, to purchase phosphorus credits off-site rather than install on-site stormwater quality management facilities. A small project is defined as less than 10 pounds of phosphorus removal required or under five acres of land disturbance.
- Note - Off-site options are available for water quality only. The Town will still get credit for the reduction to meet Chesapeake Bay TMDL requirements even if the reduction occurs outside of the Town boundaries.

### ***Stormwater Management Facility (BMP) Maintenance***

- VSMP Requirement - The VSMP regulations require the owner of a stormwater management facility to provide the Town with a maintenance report certifying that the facility is operating as designed. The report frequency is based on the specific BMP, but not less than once every five years.
- Existing Program - The Town currently inspects all stormwater management facilities on an annual basis. There is no reporting requirement for the owner.
- Amended Program - Staff has developed a draft policy to give property owners notification six months prior to the deadline for submitting the maintenance certification report. The Town will need to monitor responses and take enforcement action against those who do not report.

***Penalties***

- VSMP Requirements - The VSMP significantly increases penalties and the Town's enforcement powers.
- Amended Program - While the current process of stop work orders and other non-monetary enforcement options continue to exist, fines for a violation of the Town's stormwater management program can be up to \$32,500 per day.

**Departmental Recommendation** : Set Public Hearing.

**Finance Recommendation** : N/A

**Purchasing Recommendation** : N/A

**Town Attorney Recommendation** : In accordance with the Virginia Code and the Virginia Stormwater Management Program (VSMP) regulations, the Town is required to update its stormwater ordinance. The Town Attorney recommends the Town Council set a public hearing to consider the proposed Town Code amendments.

**Town Manager's Recommendation** : I recommend the Town Council set a Public Hearing Date on April 28, 2014 for the consideration of proposed ordinance amendments to amend Town Code, Chapter 1 as presented.

Cost and Financing: N/A

Account Number: N/A

Decision Needed by This date: April 7, 2014

**PROPOSED/SUGGESTED MOTION:**

"I move to set a Public Hearing Date on April 28, 2014 for the consideration of proposed ordinance amendments to amend Town Code, Chapter 1, General Provisions; Chapter 17, Article 2, Preliminary Plat; Chapter 18, Article 21.1, Chesapeake Bay Preservation Areas; and Chapter 23, Erosion and Siltation Control (more specifically for stormwater management ordinance amendments)."