



FLUVANNA COUNTY BOARD OF SUPERVISORS

REGULAR MEETING AGENDA

Circuit Courtroom, Fluvanna Courts Building
November 20, 2024 at 6:00 pm

TAB	AGENDA ITEMS
1 - CALL TO ORDER	
2 - PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE	
3 – ADOPTION OF AGENDA	
4 – COUNTY ADMINISTRATOR’S REPORT	
5 – PUBLIC COMMENTS #1 (5 minutes each)	
6 – APPOINTMENTS	
7 – PRESENTATIONS (normally not to exceed 10 minutes each)	
A	Blue Ridge Health Department Update – Ryan McKay, BRDH Health Director
B	MAPP2Health Community Health Assessment – Jen Fleisher, MPH CHA/CHIP Program Officer Blue Ridge Health District
8 – ACTION MATTERS	
C	Authorization to Advertise Election District(s) Name Change – Eric Dahl, County Administrator
9 – PUBLIC HEARING	
D	ZTA 24:05 – Amendment to Eliminate Rural Cluster Subdivision Regulations and Use – Dan Whitten, County Attorney; Todd Fortune, Director of Planning
E	Repeal and Reenact Chapter 6 - Erosion and Sedimentation Control – Dan Whitten, County Attorney
F	Enact Section 20-1-8 of the County Code to Exempt from Taxation Certain Classes of Tangible Personal Property – Dan Whitten, County Attorney
G	Lease Agreement with Fluvanna Christian Service Society, Inc. to Lease Property at Carysbrook Complex – Dan Whitten, County Attorney
H	FY25 FCPS Grants Supplemental Appropriation – Tori Melton, Director of Finance and Brenda Gilliam, Executive Director for Instruction and Finance
10 – CONSENT AGENDA	
I	Minutes of November 6, 2024 – Caitlin Solis, Clerk to the Board
J	FY25 Voluntary Contributions – Theresa McAllister, Management Analyst
K	Approval of Open Space Agreement for Benco, LLC – Andrew M. Sheridan, Jr., Commissioner of the Revenue
L	Approval of Open Space Agreement for Valarie Landis Dietrich and Mark O. Dietrich – Andrew M. Sheridan, Jr., Commissioner of the Revenue
M	Approval of Open Space Agreement for James J. Ehrmann and Diane B. Ehrmann – Andrew M. Sheridan, Jr., Commissioner of the Revenue
N	Approval of Open Space Agreement for Kevin D. Marshall and Christen L. Marshall – Andrew M. Sheridan, Jr., Commissioner of the Revenue

Fluvanna County is committed to providing an excellent quality of life for our citizens and businesses through the efficient delivery of core services and programs, while preserving the unique identity and rural character of the County.

- O Approval of Open Space Agreement for Austin Michael Sebetzki – Andrew M. Sheridan, Jr., Commissioner of the Revenue
- P CRMF - Abrams Academy Building Removal – Don Stribling, FCPS Executive Director
- Q CRMF - Administration Building IT HVAC Unit – Dale Critzer, Director of Public Works
- R CRMF - CAR - VRF Contactors for the HVAC – Don Stribling, FCPS Executive Director
- S CRMF - DIV- Weather Related Projects – Don Stribling, FCPS Executive Director
- T CRMF - FCHS- Hot Water Pump Motor – Don Stribling, FCPS Executive Director
- U CRMF - FCHS- Speed Bump Replacement – Don Stribling, FCPS Executive Director
- V CRMF - Public Safety Building Sewer Line Replacement – Dale Critzer, Director of Public Works

11 – UNFINISHED BUSINESS

TBD

12 – NEW BUSINESS

TBD

13 – PUBLIC COMMENTS #2 (5 minutes each)

14 – CLOSED MEETING

TBD

15 – ADJOURN



County Administrator Review

PLEDGE OF ALLEGIANCE

I pledge allegiance, to the flag,
of the United States of America,
and to the Republic for which it stands,
one nation, under God, indivisible,
with liberty and justice for all.

GENERAL RULES OF ORDER

1. It shall be the duty of the Chairman to maintain order and decorum at meetings. The Chairman shall speak to points of order in preference to all other members.
2. In maintaining decorum and propriety of conduct, the Chairman shall not be challenged and no debate shall be allowed until after the Chairman declares that order has been restored. In the event the Board wishes to debate the matter of the disorder or the bringing of order; the regular business may be suspended by vote of the Board to discuss the matter.
3. No member or citizen shall be allowed to use defamatory or abusive language directed at any member of the Board or other person, to create excessive noise, or in any way incite persons to use such tactics. The Chair shall be the judge of such breaches, however, the Board may by majority vote of the Board members present and voting to overrule the judgment of the Chair.
4. When a person engages in such breaches, the Chairman shall order the person's removal from the building, or may order the person to stand silent, or may, if necessary, order the person removed from the County property.

RULES OF PROCEDURE FOR PUBLIC HEARINGS

1. PURPOSE
 - The purpose of a public hearing is to receive testimony from the public on certain resolutions, ordinances or amendments prior to taking action.
 - A hearing is not a dialogue or debate. Its express purpose is to receive additional facts, comments and opinion on subject items.
2. SPEAKERS
 - Speakers should approach the lectern so they may be visible and audible to the Board.
 - Each speaker should clearly state his/her name and address.
 - All comments should be directed to the Board.
 - All questions should be directed to the Chairman. Members of the Board are not expected to respond to questions, and response to questions shall be made at the Chairman's discretion.
 - Speakers are encouraged to contact staff regarding unresolved concerns or to receive additional information.
 - Speakers with questions are encouraged to call County staff prior to the public hearing.
 - Speakers should be brief and avoid repetition of previously presented comments.
3. ACTION
 - At the conclusion of the public hearing on each item, the Chairman will close the public hearing.
 - The Board will proceed with its deliberation and will act on or formally postpone action on such item prior to proceeding to other agenda items.
 - Further public comment after the public hearing has been closed generally will not be permitted.

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**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB A

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Blue Ridge Health Department Update				
MOTION(s):	N/A				
BOS WORK PLAN?	Yes	No	If yes, which items(s):		
		X			
AGENDA CATEGORY:	Presentation	Action Matter	Public Hearing	Consent Agenda	Other
	X				
STAFF CONTACT(S):	Eric Dahl, County Administrator				
PRESENTER(S):	Ryan McKay, BRDH Health Director				
RECOMMENDATION:	N/A				
TIMING:	Routine				
DISCUSSION:	Ryan McKay, BRDH Health Director will give the Board of Supervisors a Virginia Department of Health update.				
FISCAL IMPACT:	N/A				
POLICY IMPACT:	N/A				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	Blue Ridge Health District Fiscal Year 2024 Annual Report				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
					X



Annual Report

Fiscal Year 2024

Blue Ridge Health District

Virginia Department of Health



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Who We Are:

The Blue Ridge Health District (BRHD) is one of 35 health districts under the Virginia Department of Health (VDH). We are comprised of five health departments and one community-based clinic that serve the counties of Albemarle, Fluvanna, Greene, Louisa, and Nelson, along with the city of Charlottesville. Our local health departments provide public health services to over 250,000 residents.

Our Mission:

To protect and promote the health and well-being of all Virginians.

Our Vision:

Working together for healthy, equitable communities.

BRHD Locations

Charlottesville/Albemarle Health Department

1138 Rose Hill Drive
Charlottesville, VA 22903
434-972-6200

Greene County Health Department

50 Stanard Street
Stanardsville, VA 22973
434-985-2262

Nelson County Health Department

4038 Thomas Nelson Highway
Arrington, VA 22922
434-263-8315

Fluvanna County Health Department

132 Main Street
Palmyra, VA 22963
434-591-1960

Louisa County Health Department

101 Woolfolk Ave
Suite 202- Clinical
Suite 203- Environmental Health
Louisa, VA 23093
540-967-3703

Yancey Community Center

7625 Porters Road
Esmont, VA 22937
434-270-3216



Letter From the Director

As I reflect on my time thus far as Director of the Blue Ridge Health District, I am filled with enthusiasm and optimism for the journey ahead. I have been a part of the Blue Ridge Health District for over 10 years and proudly stepped into the role of District Director at the end of December 2023. Though there have been challenges, I am eager for the possibilities in front of us.

Leading the District during this transformative time towards Public Health 3.0 is a privilege. Together, we are committed to improving the health and well-being of everyone who lives in and visits the Blue Ridge Health District. We have a number of vacancies that we are working diligently to fill and sustain. Our recent employee engagement initiatives, such as the Employee Onboarding Program and revitalized internal Strategic Plan, are just the beginning of our efforts to ensure that our staff feels a sense of belonging and are equipped to deliver exceptional service. These programs not only foster collaboration and understanding among our teams, but also empower us to respond more effectively to the needs of our diverse community.

I am confident that, together, we will continue to make strides in enhancing community, building partnerships, and providing the highest quality of service to those we serve. Thank you for your ongoing dedication and support as we embark on this important journey together. Please enjoy this Annual Report to reflect on all of the Blue Ridge Health District's accomplishments in fiscal year 2024.

In health,



Ryan L. McKay, MPA

Director, Blue Ridge Health District
Virginia Department of Health

MAPP2Health Report: Community Health Improvement Plan

The 2022–2025 Community Health Improvement Plan (CHIP) is entering its final year of the MAPP2Health cycle, with notable progress in FY24. Here are highlights from two key areas: transportation and digital access + skills.

In transportation, BRHD collaborated with the Charlottesville Area Alliance’s (CAA) Transportation Workgroup to improve transit and pedestrian access for older adults and people with disabilities. Projects included an AARP–hosted Walkability Audit and the launch of PATH, a mobility management program helping older adults find transportation options.

Under the leadership of CHIP convener Albemarle County Broadband Office, digital equity initiatives gained momentum by establishing a Regional Digital Equity Coalition and submitting strategic state funding applications aimed at improving connectivity and skills support. UVA Health's Telemedicine team spearheaded two innovative telehealth pilots in Southern Albemarle: a dedicated telehealth hub for community telehealth access and a device distribution program designed to expand at-home telehealth options and improve access to health information.

The new Community Health Assessment (CHA) cycle launched in January 2024. This initiative brings together the Core Group of BRHD, Sentara Martha Jefferson Hospital, and UVA Health, as well as a 16–member Steering Committee dedicated to advising the Core Group and addressing community health needs. The CHA will continue throughout FY25, culminating in a comprehensive report scheduled for publication in September 2025.

Follow the CHA at <https://www.vdh.virginia.gov/blue-ridge/communitysurvey/>.

2023–2025

Community Health Improvement Plan

Plan de mejora de la salud comunitaria



Transportation • Healthcare Workforce

Digital Access + Skills • Mental + Behavioral Health

Transporte • Personal de atención médica

Acceso digital + Alfabetización • Salud mental + conductual


2022
MAPP2Health

ALBEMARLE • CHARLOTTESVILLE
FLUVANNA • GREENE • LOUISA • NELSON




Clinical Services

Pre-admission screenings are required for people entering nursing homes to ensure those individuals and nursing home services are right for each other. This year, pre-admission screenings increased by 85 as a result more clients needing additional services to facilitate daily living. We increased the numbers of our staff performing these screenings in order to meet the new demands. One client's son sent an email to share how much they respected and appreciated this program and to thank the specific BRHD employee who conducted the screening for being so knowledgeable and caring about the client's well-being.




Pre-Admission Screenings	
Albemarle	123
Charlottesville	221
Fluvanna	143
Greene	74
Louisa	140
Nelson	38
Total	739




Immunization Visits	
Albemarle / Charlottesville	5,471
Fluvanna	851
Greene	973
Louisa	585
Nelson	245
Total Visits	8,125
Total Clients	2,534

In collaboration with BRHD’s Communications Team and Community Health Workers, outreach efforts increased, helping community members access immunization clinics. The number of immunization visits in FY24 increased by 3,000 compared to FY23. Not only that, but the number of individual clients served increased by over 700! We also built upon existing relationships with local schools to identify needs for back-to-school vaccines and hosted specific clinics for those students, faculty, staff, and neighborhoods.



Tuberculosis Screenings & Visits	
Albemarle / Charlottesville	368
Fluvanna	85
Greene	90
Louisa	178
Nelson	8
Total	729



Family Planning Visits	
Albemarle / Charlottesville	1,574
Fluvanna	250
Greene	448
Louisa	429
Nelson	341
Total Visits	3,042
Total Clients	296

Environmental Health

The Environmental Health Division includes many programs at BRHD, such as food safety and service inspections which helped 124 new food service facilities open! The division also manages sewage disposal, well permits, temporary event and vendor permits, rabies control, vital records, and much more. The team often collaborates with the BRHD Epidemiology Division to investigate food-related illnesses and outbreaks.



Sewage Disposal System Applications

Albemarle	596
Charlottesville	39
Fluvanna	126
Greene	171
Louisa	448
Nelson	113
Total	1,493



Food Service Establishment Inspections

Albemarle	403
Charlottesville	406
Fluvanna	29
Greene	76
Louisa	118
Nelson	44
Total	1,076

This year, a highlight of the Environmental Health Division was welcoming colleagues from Texas, North Carolina, and Illinois as part of the Retail Program Standards mentorship initiative. This initiative facilitates the exchange of insights and experiences on preventing foodborne illness within our districts. We were honored to be invited to present at the annual Retail Program Standards Summit, where we shared our successes and contributed to the broader dialogue on food safety standards.

Rabies Exposures Investigated



Albemarle	376
Charlottesville	62
Fluvanna	12
Greene	57
Louisa	73
Nelson	52
Total	632

Vital Records Issued (incl. duplicate copies)



Albemarle / Charlottesville	12,923
Fluvanna	2,063
Greene	1,117
Louisa	1,689
Nelson	1,082
Total	18,874

Temporary Event Vendors Permitted



Albemarle	31
Charlottesville	26
Fluvanna	15
Greene	8
Louisa	13
Nelson	26
Total	119

Emergency Preparedness & Response

We spent a significant portion of the past year working on Project Public Health Ready (PPHR) Re-Certification which we officially received on July 1, 2024. PPHR recognition confirms that BRHD has a thorough and coordinated emergency response plan in place and that staff have the training to protect the health of the community during an emergency.



PPHR is a criteria-based training and recognition program created by the National Association of County and City Health Officials (NACCHO) and the Centers for Disease Control and Prevention (CDC) to help local health departments develop core public health emergency preparedness competencies. This intensive 18-month program provides local health departments with the structure to build training and preparedness capacity using a continuous quality improvement model.

PPHR recognition also requires health departments to collaborate with their state, local, and community partners to develop plans that account for all the constituents in their jurisdictions. We are thrilled to have received our PPHR Certification again and look forward to continuing our emergency preparedness and response efforts.

Medical Reserve Corps (MRC) Volunteers

Hours Volunteered by MRC	
Albemarle	234.75
Charlottesville	1,030.75
Fluvanna	215.25
Greene	43
Louisa	52.5
Nelson	45.5
Online Education	576.75
Total	2,198.5

Our MRC volunteers have a lot to celebrate this year! One of our biggest accomplishments was coordinating and collaborating with Charlottesville Airport to conduct their Triennial Full Scale Emergency Response Exercise. We deployed 22 volunteers to be actors of the plane crash training exercise. Participants dressed with realistic injuries and employed their best acting skills, and the airport was able to have a successful exercise with the help from MRC.

VIRGINIA

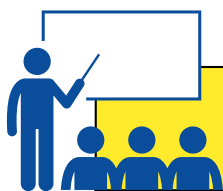


Population Health

Outreach Network



The Blue Ridge Health District Outreach Network was formally launched on October 18, 2023. After being identified as a need by the 2022 Community Health Assessment (CHA), the Outreach Network was developed as a part of the 2023-2025 Community Health Improvement Plan (CHIP). Our mission is to create and operate a network providing training, collaboration, and networking opportunities to the District's community health workers (CHWs) and those in similar outreach positions. Our initial goal was to refer 30 CHWs or similar workers to trainings via the Network in 2024. We exceeded that goal within the first quarter with 73 people referred. We continue to grow in membership and in the types of trainings provided.



Trainings & Networking Events Hosted

Total	23
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Monthly Newsletter Subscribers

Total	334
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Community Health Workers

This past year, our Community Health Workers (CHWs) have made significant strides in connecting diverse community members with essential services related to the social determinants of health. Community partnerships played a vital role in our CHW success. Through office hours, active participation in local events, and strong ties with trusted neighborhood leaders, our CHWs built trust and strengthened relationships within the community, enabling us to provide targeted support.



Office Hours Hosted

Total	554
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Additionally, BRHD partnered with UVA Cancer Center's Every Women's Life Program, allowing us to connect individuals with life saving breast health services through digital referrals using the Unite Us platform. Another key highlight was the increased distribution of car seats and cribs, ensuring safe transportation and safe sleep environments for infants.



Community Events Attended

Total	113
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Population Health

Maternal Child Health (MCH)

While there are plenty of English materials explaining safe sleep practices, the same can't be said for Dari or Pashto - two of the most spoken languages among our Afghan communities. To address this disparity, we partnered with the Communications Team to create a one-page handout specific to Dari & Pashto speakers. The handout covers safe sleep practices and harmful habits to avoid (like smoking near baby) during an infant's first year of life.



Free Portable Cribs Distributed	
Total	192

Our main priority during the development process was to ensure the content was both applicable and culturally sensitive. By working alongside native speakers, we made sure the phrasing was appropriate and easy to understand. We specifically took into account that some cultural practices, like co-sleeping, would need special consideration to avoid coming off as stigmatizing or insensitive. On the visual side, we took care to select culturally relevant graphics that accurately reflect the population. This collaborative effort between teams allowed us to tailor our message and better serve our District's Afghan refugee families.

Free Car & Booster Seats Distributed	
Albemarle / Charlottesville	180
Fluvanna	27
Greene	22
Louisa	63
Nelson	27
Total	319

Communications



Graphics & Flyers Created	
Total	600+

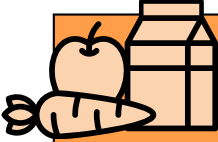
Materials Translated into non-English languages	
Total	265

Social Media Posts on Facebook, Instagram, & X	
Total	1,495

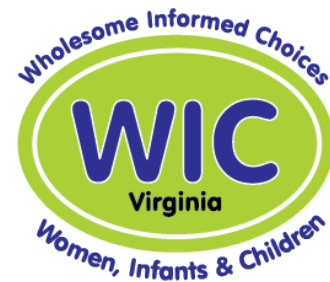
Newsletters Published	
Total	26

Women, Infants, & Children (WIC)


To address extended appointment wait times, enhance processing efficiency, and better serve the local population, the Blue Ridge WIC program introduced a temporary walk-in clinic. From March to May 2024, families were able to access WIC services without a scheduled appointment every Wednesday from 12:00 to 2:00 PM. This initiative enabled us to accommodate another 90 clients, including several mothers with young infants, who would otherwise have faced prolonged delays for an appointment.



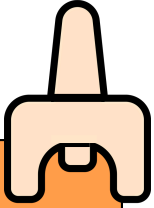
Average Monthly Client Caseload	
Albemarle / Charlottesville	1,710
Fluvanna	216
Greene	331
Louisa	503
Nelson	254
Total	3,014



Harm Reduction



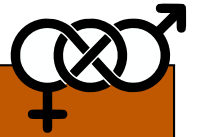
Fentanyl, Xylazine, & Benzodiazepine Testing Strips Distributed	
Albemarle	31
Charlottesville	201
Fluvanna	4
Greene	0
Louisa	16
Nelson	18
Total	270



Boxes of Naloxone Nasal Spray Distributed	
Albemarle /Charlottesville	298
Fluvanna	12
Greene	10
Louisa	102
Nelson	2
Total	424

Sexual Health Services

Sexually transmitted Infections (STIs) continue to significantly contribute to the disease burden in BRHD. Chlamydia has the highest prevalence, accounting for 70% of the cases investigated. This was followed by gonorrhea with 24% of cases investigated, which represents a continued upward trend for both infections. Several of these instances were “dual infections,” meaning the person had both infections detected. HIV and syphilis, which are also increasing, accounted for a combined 6% of cases investigated.



Sexual Health Visits	
Albemarle / Charlottesville	3,243
Fluvanna	37
Greene	23
Louisa	87
Nelson	0
Total Visits	3,390
Total Clients	298

Rapid HIV + Hep C Tests Provided	
Total	115



Condoms Distributed	
Total	47,536



Epidemiology

During the last fiscal year, gastrointestinal events accounted for 28% of all reported incidents. Tick-borne illness investigations accounted for another 15% of cases, with Lyme disease occurring most frequently. Nine percent of the cases investigated were invasive bacterial infections, which are bacteria that invade parts of the body that are normally free of germs, including the bloodstream, muscles, and fat.

Throughout the fiscal year, COVID-19 emergency department visits declined. However, congregate settings continued to experience COVID-19 outbreaks. Cases were often mild or asymptomatic and there were minimal hospitalizations and associated deaths. Of the 52 reported outbreaks, 34 occurred in long-term care settings. Schools accounted for the other 17 events.



Reported Disease Cases Investigated	
Albemarle	377
Charlottesville	241
Fluvanna	72
Greene	28
Louisa	65
Nelson	39
Total	822

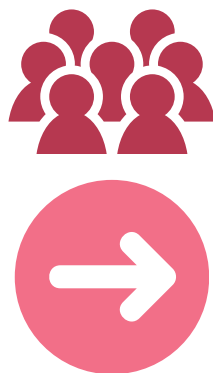
Human Resources and Workforce Development



In February of 2024, we launched our brand-new Employee Onboarding Program. Once a quarter, all new employees get together to talk about their experiences at BRHD, learn about the District and the services we offer, and have face time with District leadership. This program has allowed new employees to better understand the communities we serve and resulted in increased cross-department collaboration, allowing for smoother referrals between divisions. The program has become a model for other localities and several VDH Central Office staff have attended to see if it should be expanded to the agency on whole.

We also launched our new training request and approval process. In FY24, 10 employees attended 8 external trainings using the process, allowing BRHD staff to better serve the community. Another training success story is the acceptance and completion of the Commonwealth Management Institute by one of our District Management Team Members. Our Director of Population Health attended this weeklong training and brought back best practices for managing staff, increasing engagement, and relationship building that she has shared with other leaders throughout the District. This will result in a more engaged workforce as our supervisors learn crucial skills for maintaining stability and consistency.

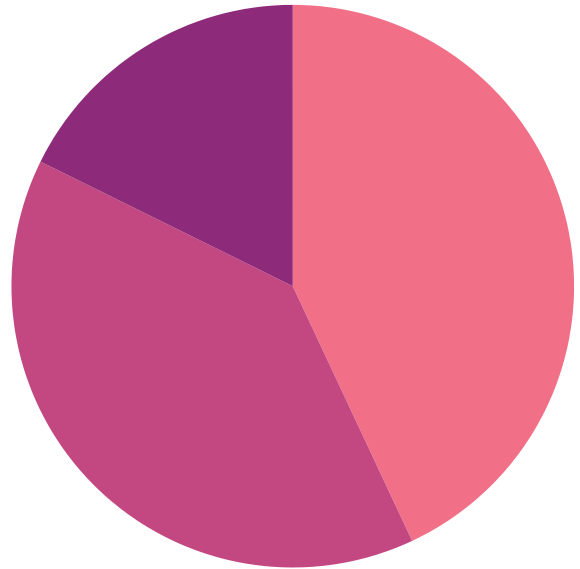
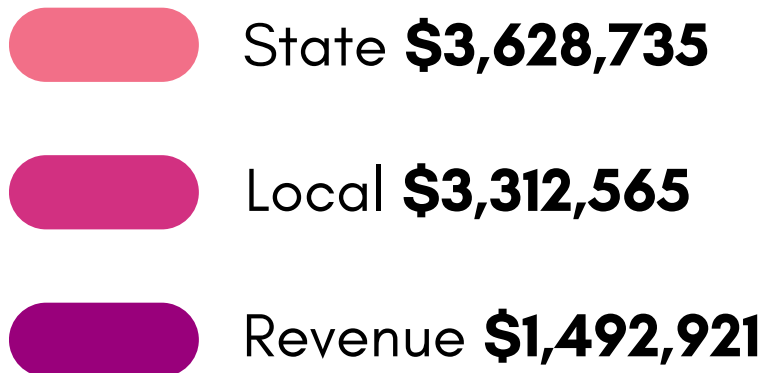
July 2023	
Full-Time	70
Wage	3
Contract	35
Total	108



June 2024	
Full-Time	70
Wage	4
Contract	40
Total	114

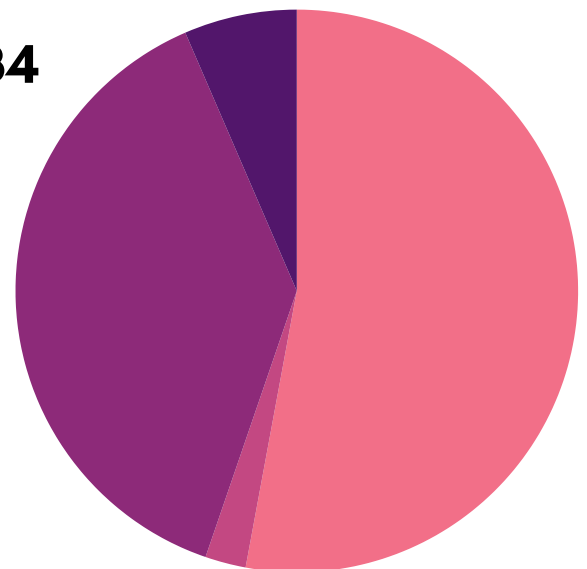
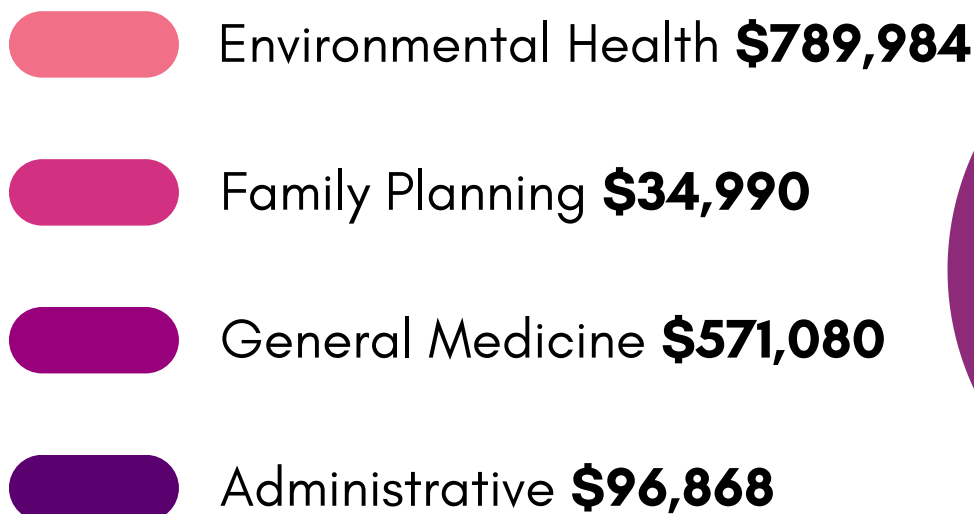
Fiscal Information

Funding:



\$8,434,221 Total

Revenue:



\$1,492,922 Total

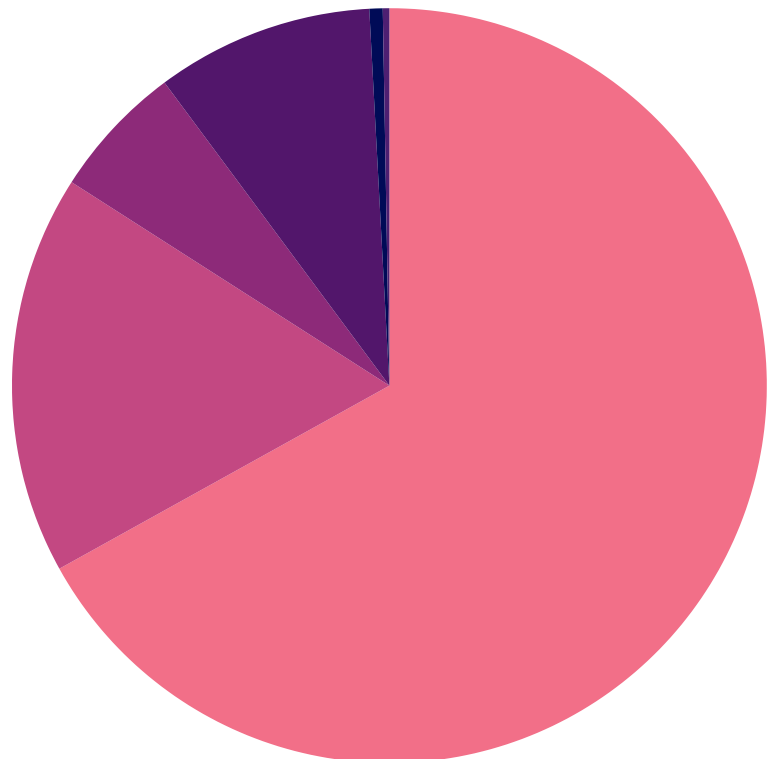
Fiscal Information

Expenses:

- Personnel **\$5,051,554**
- Contractual Services **\$1,292,140**
- Supplies **\$435,897**
- Continuous Charges **\$702,721**
- Equipment **\$42,967**
- Transfers Payments **\$21,152**

\$7,546,431

Total



**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB B

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	MAPP2Health Community Health Assessment				
MOTION(s):	N/A				
BOS WORKPLAN?	Yes	No	If yes, which item(s):		
		X			
AGENDA CATEGORY:	Presentation	Action Matter	Public Hearing	Consent Agenda	Other
	X				
STAFF CONTACT(S):	Eric Dahl, County Administrator				
PRESENTER(S):	Jen Fleisher, MPH CHA/CHIP Program Officer Blue Ridge Health District				
RECOMMENDATION:	Information only				
TIMING:	Routine				
DISCUSSION:	Jen Fleisher will be presenting an overview of the 2024-2025 MAPP2Health Community Health Assessment, with a focus on how it relates to Fluvanna County. This will include a review of relevant secondary health data, initial findings from our randomized household survey in Nelson County (and their implications for Fluvanna), as well as insights from our online Community Health Survey and in-person interviews in Columbia and Fork Union. She will also explore current efforts and potential opportunities for the Board of Supervisors to support the Assessment and its implementation plan.				
FISCAL IMPACT:	N/A				
POLICY IMPACT:	N/A				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	MAPP2Health Focus Group Flyer				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
					X

Join us for a conversation

Share your unique perspective to help the community assessment and make change in Fluvanna.

When:

Whenever your group meets! Individual interviews are 10-15 mins. Group interviews are ~45 mins.

Where:

Wherever your group, class, or session meets. We come to your regularly scheduled gathering and interview participants individually, or as a group.

Compensation:

Participants receive a \$25 Food Lion gift card for their time

Interested?

Email BRHD's Jen Fleisher to have her come visit your group:
jennifer.fleisher@vdh.virginia.gov

2024-2025
MAPP2Health

**ALBEMARLE • CHARLOTTESVILLE
FLUVANNA • GREENE • LOUISA
NELSON**

**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB C

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Authorization to Advertise Election District(s) Name Change				
MOTION(s):	<p>I move the Board of Supervisors authorize staff to advertise the ordinance to amend and reordain “Code of the County of Fluvanna, Virginia” by amending §§ 2-2-3 and 2-2-4 to change the name of the following election district(s),</p> <ul style="list-style-type: none"> • Palmyra to: _____ • Columbia to: _____ • Fork Union to: _____ • Cunningham to: _____ • Rivanna to: _____ <p>with a public hearing to be held December 18, 2024.</p>				
BOS WORK PLAN?	Yes	No	If yes, list item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
		X			
STAFF CONTACT(S):	Eric Dahl, County Administrator				
PRESENTER(S):	Eric Dahl, County Administrator				
RECOMMENDATION:	Joyce Pace, Director of Elections/General Registrar recommended that if the Board of Supervisors wanted to make any changes, to delay any proposed changes until after the November 2024 Presidential General Election.				
TIMING:	Routine				
DISCUSSION:	<p>The Palmyra District, as redrawn following 2020 Census and Redistricting, is no longer located near the village of Palmyra. It was previously discussed whether or not to change this district name or others.</p> <p>Polling place changes cannot occur within 60 days of a general election unless there is an emergency (VA Code 24.2-306). This section does not apply to primary elections, but it is important to be mindful of the timing of any primary elections. Early voting begins 45 days prior to a primary election or general election.</p> <p>Additionally, there is still an approval process (either by public hearing or submitting a certificate of no objection). If there are any changes, pertinent information needs to be uploaded to the Department of Elections to review. VA Code 24.2-129. Covered practices; actions required prior to enactment or administration covers the requirements for preclearance/permanent changes.</p> <p>Notice of changes must be mailed no later than 15 days prior to election.</p> <p>If the BOS decides to move forward with changes, some decisions required are:</p>				

	<ul style="list-style-type: none"> • Which district name to change? Palmyra only or all district names change? • If a name is selected to change, what is the new name of the district(s)? 				
FISCAL IMPACT:	<p>Costs vary according to the number of district names changed.</p> <p># of Registered Active Voters per District (as of Nov 1, 2024):</p> <ul style="list-style-type: none"> • Palmyra: 4,095 • Columbia: 3,961 • Fork Union: 4,218 • Cunningham: 4,166 • Rivanna: 4,592 <p>Below outlines the cost estimates:</p> <ul style="list-style-type: none"> • Postage: \$.69/letter (effective July 14, 2024) <ul style="list-style-type: none"> ○ (\$2,825 Palmyra District only; \$14,478 for all districts) • Envelopes, paper, and outsourced or staff costs for the actual printing, processing and mailings: TBD • Legal ad (for public hearing): \$154 x 2 • Publication in newspaper of notice of change: \$154 x 2 • I would estimate ~\$3,400 - \$4,000 cost per district name change or ~\$17,000 - \$20,000 for all districts. 				
POLICY IMPACT:	Update to County Code; requires a public hearing				
LEGISLATIVE HISTORY:	<ul style="list-style-type: none"> • Redistricting Ordinance adopted Dec 15, 2021 • At the January 3, 2024 Board of Supervisors Meeting, the Board asked staff to bring this item back for discussion at the August 21, 2024 meeting; at that meeting, the Board asked staff to bring this back at the November 20, 2024 meeting. 				
ENCLOSURES:	<ul style="list-style-type: none"> • Voter Registration Counts by District • Virginia Code §24.2-306 Changes not to be enacted within 60 days of general election; notice requirements • Public Hearing Ad 				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
	X				X

Report ID: CP-160

**Commonwealth of Virginia
State Board of Elections
Registrant Counts By Locality
Voters registered as of 11/1/2024
All Localities**

Locality: 065 FLUVANNA COUNTY

Precinct No.	Precinct Name	Active	Inactive	All	Military	Overseas	Federal		
0101	101 - PALMYRA	4,095	172	4,267	44	16	4		
0201	201 - COLUMBIA	3,961	132	4,093	26	8	10		
0301	301 - FORK UNION	4,218	192	4,410	37	6	4		
0401	401 - CUNNINGHAM	4,116	170	4,286	50	16	1		
0501	501 - RIVANNA	4,592	211	4,803	57	18	5		
# of Precincts in the Locality:		5	# of Voters:	20,982	877	21,859	214	64	24

Code of Virginia

Title 24.2. Elections

Chapter 3. Election Districts, Precincts, and Polling Places

Article 3. Requirements for Election Districts, Precincts, and Polling Places

§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. In addition to the requirements set forth in § 24.2-129, notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and 30-395, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

Code 1950, §§ 24-49 through 24-51; 1970, c. 462, § 24.1-39; 1971, Ex. Sess., c. 119; 1993, c. 641; 1995, c. 249; 2003, c. 1015; 2004, c. 1000; 2012, cc. 328, 486; 2019, cc. 777, 778; 2020, Sp. Sess. I, c. 56; 2021, Sp. Sess. I, cc. 528, 533.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

(Seal)
PUBLIC HEARING

**Fluvanna County Board of Supervisors
December 18, 2024 at 7:00 pm**

Pursuant to Virginia Code Sections 15.2-1427, a Public Hearing will be held in the Fluvanna County Circuit Court, at 72 Main Street, Palmyra, VA 22963 for citizens of the County to have the opportunity to have the opportunity to appear before and be heard by the Board of Supervisors on the following item:

Ordinance to amend and reordain “Code of the County of Fluvanna, Virginia” by amending §§ 2-2-3 and 2-2-4 to change the name of an election district(s)

Copies of the complete text of the above ordinance is available for public review at <http://www.fluvannacounty.org/> and at the Office of the County Administrator during normal business hours. All interested persons wishing to be heard are invited to attend the public hearing.

TO: Fluvanna Review
Advertise on the following dates: November 28 & December 5, 2024
Authorized by: Fluvanna County Board of Supervisors
Bill to: Board of Supervisors

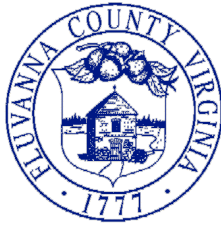
CONTACT INFORMATION:

Caitlin Solis
Clerk, Board of Supervisors
Fluvanna County
P. O. Box 540
Palmyra, VA 22963
csolis@fluvannacounty.org
434-591-1910
434-591-1913

**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB D

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	ZTA 24:05 – Amendments to the Fluvanna County Zoning and Subdivision Ordinances, repealing §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2 and 22-4-10.3 and amending §§ 19-8-1, 19-8-6, 22-4-2.1, and 22-4-3 to eliminate rural cluster subdivision regulations and use.				
MOTION(s):	I move that the Board of Supervisors (approve / deny / defer) ZTA 24:05, an ordinance to amend and reordain “The Code of the County of Fluvanna, Virginia” by repealing §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2 and 22-4-10.3 and amending §§ 19-8-1, 19-8-6, 22-4-2.1, and 22-4-3 to eliminate rural cluster subdivision regulations and use.				
BOS WORK PLAN?	Yes	No	If yes, which item(s):		
		X			
AGENDA CATEGORY:	Presentation	Action Matter	Public Hearing	Consent Agenda	Other
			X		
STAFF CONTACT(S):	Dan Whitten, County Attorney; Todd Fortune, Director of Planning				
PRESENTER(S):	Dan Whitten, County Attorney; Todd Fortune, Director of Planning				
RECOMMENDATION:	Approve				
TIMING:	Routine				
DISCUSSION:	At its meeting on September 18, 2024, the Board of Supervisors directed the Planning Commission to make a recommendation on rural cluster subdivisions to be brought back before the Board for its November 20, 2024 meeting. Rural clusters are currently allowed by right in properties zoned A-1, Agricultural. Consequently, there are no public hearing requirements. The Planning Commission has a limited role in accepting or approving rural clusters, and the Board has no role.				
FISCAL IMPACT:	None				
POLICY IMPACT:	This change, if approved, would eliminate rural clusters as an allowed use in A-1. As a result, a developer’s options for subdividing property going forward would be to create a family subdivision or conventional minor subdivision (allowed by right in A-1) or to have the property rezoned to a residential use (R-1, R-2, R-3, or R-4) or a PUD (for properties in the Zion Crossroads Community Planning Area).				
LEGISLATIVE HISTORY:	This proposed Zoning Text Amendment was presented to the Planning Commission for review on November 12, 2024. The Commission, by a vote of 5-0, recommended approval of the proposed amendment.				
ENCLOSURES:	<ul style="list-style-type: none"> • Staff Report • Proposed Ordinance Amendment Blackline and Clean 				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
	X				X



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

BOS2024-11-20 p.37/244
132 Main Street
P.O. Box 540
Palmyra, VA 22963
(434) 591-1910
Fax (434) 591-1911

PLANNING COMMISSION STAFF REPORT

To: Fluvanna County Board of Supervisors

From: Dan Whitten, County Attorney; and Todd Fortune, Director of Planning

Case Number: ZTA 24:05

District: Countywide Amendment

General Information: This Zoning Text Amendment request is to be heard by the Fluvanna County Board of Supervisors on Wednesday, November 20, 2024 at 7:00 pm in the Fluvanna County Circuit Court.

Requested Action: Approval of amendments to the Fluvanna County Zoning Ordinance by repealing §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2, and 22-4-10.3, and amending §§ 19-8-1, 19-8-6, 22-4-2.1, and 22-4-3, to eliminate Rural Cluster Subdivision regulations and use.

Background Information: At its meeting on September 18, 2024, the Board of Supervisors directed the Planning Commission to make a recommendation on Rural Cluster Subdivisions to be brought back before the Board for its November 20, 2024 meeting.

The Planning Commission held a public hearing on November 12, 2024 to consider the proposed amendment. The Commission recommended approval of the amendment.

Virginia Code § 15.2-2286.1 requires localities with a population growth rate of 10% or more from the next-to-latest to latest decennial census to allow Rural Cluster Subdivisions in their zoning ordinances. In 2020 Fluvanna's population growth was less than 10%, so the County is no longer bound by this legislative requirement.

Rural cluster subdivisions are currently allowed by right in A-1 Agricultural. Consequently, there are no public hearing requirements. The Planning Commission's role is to accept the sketch plan. Once the sketch plan is accepted, site plans are approved administratively. Approval is contingent upon approval from relevant stakeholders (VDOT, County E&S staff, etc.). The Board of Supervisors has no role in accepting or approving Rural Clusters.

If Rural Clusters are removed as a by-right use in A-1, options for future subdivision development would be:

- Family subdivisions and conventional minor subdivisions are allowed by right in A-1.
- Parcels in A-1 could be rezoned to R-1, R-2 or R-4 (which allow for cluster developments by right); R-3 (which allows for compact residential development and associated uses including open space); or a Planned Unit Development (if the parcel is located in the Zion Crossroads Community Planning Area).

Projects that have already received acceptance of the sketch plan from the Planning Commission will be allowed to continue through the process.

Recommended Motion:

I MOVE THAT THE BOARD OF SUPERVISORS (APPROVE / DENY / DEFER) ZTA 24:05 – AN ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY REPEALING §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2 AND 22-4-10.3, AND AMENDING §§ 19-8-1, 19-8-6, 22-4-2.1, AND 22-4-3, TO ELIMINATE RURAL CLUSTER SUBDIVISION REGULATIONS AND USE.

ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY REPEALING §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2 AND 22-4-10.3, AND AMENDING §§ 19-8-1, 19-8-6, 22-4-2.1, AND 22-4-3, TO ELIMINATE RURAL CLUSTER SUBDIVISION REGULATIONS AND USE

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) *That the Code of the County of Fluvanna, Virginia is amended by repealing §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2, and 22-4-10.3, and amending §§ 19-8-1, 19-8-6, 22-4-2.1, and 22-4-3, as follows:*

CHAPTER 19 SUBDIVISIONS

ARTICLE 7. – SUBDIVISION DESIGN STANDARDS

~~Sec. 19-7-2. — Rural cluster subdivisions.~~

~~All subdividers shall strive to conserve the noteworthy features of the parcel to be subdivided and the rural landscape, in accordance with the Comprehensive Plan and the purpose of this chapter. To achieve these objectives, the subdivider shall follow the process set forth below in developing rural cluster subdivisions for the subdivision of a tract. All major subdivisions in the A-1 Agricultural General Zoning District Classification shall be Rural Cluster subdivisions and subject to this section.~~

- ~~(A) Determine the number of lots desired, not exceeding the number allowed to be subdivided from the tract under the density provisions of Chapter 22;~~
- ~~(B) Delineate areas of the tract to be conserved due to their noteworthy features and value to the continued rural character of the county, including, but not limited to, lands with high value for continued agricultural or forestry production, high scenic value including riparian corridors and wildlife habitat; high environmental sensitivity such as steep slopes, wetlands, floodplains; high recreational value and/or having noteworthy historical, natural, or cultural features;~~
- ~~(C) Locate potential house sites on the area of the tract not delineated as conservation areas, with due consideration for topography, soil suitability for construction and septic system use, and efficient service by public or central water and/or sewerage systems, as applicable;~~
- ~~(D) Align streets to serve house sites, with due consideration for topography and connections to existing, planned or potential streets in adjacent areas, and align pedestrian trails if planned; and~~

~~(E) Delineate boundaries of individual residential lots and any residue, in accordance with the lot size, dimension, setback, and yard requirements of Chapter 22.~~

ARTICLE 8. – REQUIRED IMPROVEMENTS

Sec. 19-8-1. – Streets.

An adequate system of streets shall be constructed to provide access from all lots to the state highway system.

- (A) In any major subdivision, as defined herein, all streets shall be designed and constructed in conformance with the Virginia Department of Transportation's subdivision street requirements. Preliminary plans for all such streets shall have been approved by the Virginia Department of Transportation prior to approval of the preliminary plat.
- (B) Proposed street names shall be shown on the preliminary plat, and may be changed by the Subdivision Agent. Names of new streets shall not duplicate names of existing streets, irrespective of suffixes. Any street that is a continuation of an existing street shall bear the name of the existing street. The governing body may institute a fee in order to acquire and install all street identification signs. Where a street is planned for future extension, and a stub street serving three or more (≥ 3) lots is proposed for construction as part of a subdivision, a temporary turnaround shall be provided on such stub street. Such turnaround shall be of adequate location, size and design as determined by the Subdivision Agent. All stub streets shall be marked with a metal sign clearly providing public notice that the street is subject to future extension.
- (C) Any private road in a subdivision which will not be constructed to Virginia Department of Transportation standards shall be located in a right-of-way or easement at least fifty (50) feet in width and shall be so designed and built as to provide adequate access by ordinary passenger vehicles in all weather, in accordance with the provisions of this section as set forth hereinafter. All lots that are within a subdivision which is served by any private road shall be prohibited direct vehicular access from an existing public road by deed restriction or other means. Except in the case of lots intended, designed and used ~~(a)~~ for attached single-family, two-family or multi-family dwellings; ~~(b)~~ for rural cluster lots; or ~~(c)~~ for commercial or industrial uses, no lot served by a private road may be less than ten (10) acres in area, and no such private road shall serve more than five (5) lots. The plat, and each deed, shall clearly state that the county and Commonwealth are not responsible for the maintenance of the roads. A road maintenance agreement, approved by the County Attorney and the Subdivision Agent, shall be filed with the deeds of all lots to be served by such private road. Such agreement shall require the landowners, jointly and severally, to cooperate in and pay for the maintenance of the road such that emergency vehicles and other necessary traffic can reach all of the lots with reasonable ease. Each plat showing any such private road shall contain a certification from a registered surveyor or engineer in substantially the following form: "The private road shown on this plat will provide reasonable access to all lots served by

such road by emergency vehicles and ordinary passenger vehicles as required by Section 19-8-1 of the Fluvanna County Code." Private roads shall conform to the following minimum specific construction standards:

Number of Lots	Right-of-Way Width	Minimum Width of Travelway	Surface Treatment	Minimum Ditchline	Maximum Grade
1-5	50 feet	14 feet	Gravel (#25 or #26), 3 inches in depth over suitable base	4 feet in width, with a minimum of 4% slope from the travelway and ditches a minimum of 18 inches in depth	9%

Sec. 19-8-6. – Recreation.

For any major subdivision, as defined in this chapter, if the average lot size for that subdivision is five acres or less (≤ 5), ~~except for Rural Cluster Subdivisions~~, the subdivider shall provide space and facilities for recreation. Such space shall be clearly labeled on the plat, and shall be dedicated to an entity approved by the county for ownership and maintenance.

(A) Space for recreation shall be provided at the rate of 5,000 square feet per lot in the subdivision or 15 percent of the total acreage of the subdivision, whichever is more. This area shall not be developed for parking, roadways, refuse collection, or similar use. An area of one-half ($\frac{1}{2}$) acre or more shall be located within one-half ($\frac{1}{2}$) mile of each proposed dwelling unit as part of the recreation area, and shall be improved with facilities for sports, picnicking, tot lot equipment, active playground with equipment, or similar uses.

(B) Each area reserved for recreation shall be of a size and shape conducive to the proposed recreational use.

CHAPTER 22 ZONING

ARTICLE 4. – AGRICULTURAL, GENERAL, DISTRICT A-1

Sec. 22-4-2.1. – Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses

Agriculture

Conservation areas

Equestrian facilities

Farm sales

Hunt clubs

Hunting preserves

Civic Uses

Public parks and recreational areas

Public uses

Commercial Uses

Family daycare homes

Home occupations

Studios, fine arts

Industrial Uses

Sawmills, temporary

Miscellaneous Uses

Accessory uses

Cemeteries, non-commercial

Greenhouses, non-commercial

Kennels, private

Marinas, private non-commercial

~~Rural cluster developments~~

Shooting, private recreational

Small scale solar generation facility

Utilities, minor

Wood storage, temporary

Residential Uses

Dwellings, accessory

Dwellings, two-family

Farm tenant housing

Group homes

Manufactured homes

Mobile homes, as defined in Section 22-4-2.3

Single-family detached dwellings, including family subdivisions and conventional minor subdivisions, but excluding conventional major subdivisions recorded after April 5, 2004

Short-term rental of a residential dwelling

Sec. 22-4-3. – Residential density; minimum lot size; dimensional requirements.

Maximum gross residential density and minimum lot size and minimum dimensional requirements for conventional development, ~~but not for Rural Cluster Subdivisions~~, shall be as follows:

(A) Gross residential density: one (1) dwelling unit per two (2) acres. In order to construct more than one dwelling on any one parcel, a sketch plan must be submitted that would demonstrate that all dwellings could be lawfully subdivided so as to be on their own lots.

(B) Minimum lot size: two (2) acres

(C) Minimum frontage required:

(1) Existing or proposed public roads, except as otherwise provided:

- (a) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 500 feet
- (b) All other public roads: 300 feet
- (2) Private roads: 200 feet
- (D) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.
- (E) Minimum setback required (as measured from edge of right-of-way):
 - (1) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 200 feet
 - (2) All other public roads: 125 feet
 - (3) Private Roads: 100 feet
- (F) Minimum side yard: 50 feet
- (G) Minimum rear yard: 75 feet

~~Sec. 22-4-10. Rural cluster development.~~

~~It shall be the policy of the County to promote the preservation of open space and the rural character of the County, while at the same time accommodating growth and protecting the value of property. To implement such policy, development of property according to rural cluster principles shall be encouraged throughout the County in accordance with the provisions of this section.~~

~~Sec. 22-4-10.1. Definitions~~

~~For purposes of this Section 22-4-10, the following terms shall be deemed to have the following meanings:~~

~~*Building lot* shall mean any lot which is sold or intended for use for the construction of one or more residential units.~~

~~*Existing public road* shall mean any road which is maintained as part of the Virginia Highway System or the Virginia Secondary Highway System at the time of the final approval for any rural cluster development; provided that no road which is dedicated to public use in connection with the approval of any cluster option development, whether by depiction on a subdivision plat or otherwise, shall be deemed to be an existing public road for purposes of this section.~~

~~*Open space parcel* shall mean any parcel which is restricted from further residential, commercial or industrial development as provided herein.~~

Rural cluster development shall mean any subdivision or other development for sale or use for residential purposes as provided in this section.

~~Sec. 22-4-10.2. — Compliance with zoning and subdivision regulations.~~

~~Each rural cluster development shall comply with the provisions of this Section 22-4-10, and, to the extent that the provisions of this section shall conflict with other provisions of this chapter, the provisions of this section shall control. Except to the extent of such conflict, the provisions of this chapter shall control every rural cluster development. In addition, every rural cluster development shall comply with the provisions of Chapter 19 of the Code.~~

~~**Cross reference** — Chapter 19 of this Code sets out the provisions adopted as the Subdivision Ordinance of Fluvanna County, Virginia.~~

~~Sec. 22-4-10.3. — Rural cluster regulations.~~

~~Any parcel of land which is otherwise susceptible to development into building lots may be divided into lots which provide for the preservation of substantial open space as hereinafter provided. Such development shall be known as rural cluster development.~~

~~(1) The gross density for any rural cluster development shall not exceed one (1) dwelling unit per two (2) acres, as provided in this district.~~

~~(2) Repealed.~~

~~(3) Not less than $\frac{3}{4}$ of the area of any rural cluster development shall be permanently restricted to prohibit further residential, commercial or industrial development. Such restriction may be made in the form of a covenant running with the land so restricted and in favor of each building lot in the rural cluster development, and in favor of the County. In the alternative, such restriction may be effected by the conveyance or dedication of such restricted land to the County, the Commonwealth or any other public body which is empowered to accept such conveyance or dedication. The substance of any such restriction, conveyance or dedication shall be subject to the approval of the County to ensure that such restriction shall be permanent and effective, which approval shall be made at the time of final subdivision approval and shall not be unreasonably withheld. The form of each such restriction, conveyance or dedication shall be subject to the approval of the County Attorney at the time of final subdivision approval. Nothing herein shall be deemed to require the acceptance of any conveyance or dedication or land by any public body except as may be approved by the governing body of such public body in its sole discretion.~~

~~(4) Nothing contained herein shall be construed to prevent the use or development of any open space parcel for one or more of the following:~~

~~(A) The construction of a single family residence, provided that such residence shall be included in the calculation of maximum gross density permitted for the cluster option development.~~

~~(B) Agriculture, horticulture, silviculture, including temporary sawmills, but not including any residential, commercial or industrial uses or structures.~~

~~(C) Parks; playgrounds; preserves; conservation areas; hunting and boating clubs and small boat docks; all of which shall be maintained for the use of the residents of the rural cluster development or of the public, but, in any event, not for residential, commercial or industrial use.~~

~~(D) Public utilities: Poles, lines, transformers, pipes, meters and related or similar facilities; water and sewerage distribution and collection lines.~~

~~(E) Cable communications distribution lines.~~

~~(F) Public uses and structures.~~

~~(G) Water wells and other facilities for the production, storage and distribution of water exclusively for the use of the residents and users of uses permitted within the rural cluster development; subject, in the case of any such facility which is a part of a central water system, to the issuance of a special use permit.~~

~~(H) Septic systems and other sewage disposal facilities exclusively for the use of the residents and users of uses permitted within the rural cluster development subject, in the case of any such facility which is a part of a central sewer system, to the issuance of a special use permit.~~

~~(I) Non-commercial cemeteries.~~

~~(5) Each building lot shall be so designed as to provide minimum setbacks and yards. Except for buildings lots fronting on existing public roads, such setbacks and yards shall be not less than the minimum setback and yard requirements of the R-4 residential district which are as follows:~~

~~(A) The minimum frontage for permitted uses shall be sixty (60) feet, and for each additional permitted use there shall be at least ten (10) feet of additional lot width.~~

~~(B) Side. The minimum side yard for each accessory building and main structure, including a group of attached dwelling units, shall be ten (10) feet on each side.~~

~~(C) Rear. Each main structure shall have a rear yard of twenty five (25) feet or more, and no accessory building shall be placed within twenty five (25) feet of any rear line.~~

~~(D) Any lot or parcel fronting on two (2) or more roads shall conform to the frontage, minimum lot width and setback requirements for all such roads.~~

~~(6) Each building lot fronting on an existing public road shall conform to the minimum frontage, setback and yard requirements for conventional development in this district. For purposes of this section, any building lot which is separated from an existing public road by any open space parcel shall be deemed to front on such existing public road for purposes of the application of such minimum frontage, setback and yard requirements unless the distance between the boundary of such open space parcel and any abutting building lot shall be at least equal to the minimum setback requirement applicable to conventional development in this district.~~

~~(7) All building lots shall be designed with due consideration of the topography and soil suitability for the following purposes, in such a manner as to maximize the efficient use and utility of the land; minimize development cost; protect existing scenic quality; discourage congestion in adjacent public roads; and minimize land disturbance, soil erosion and other potentially adverse consequences of development:~~

~~(A) Construction of residential improvements;~~

~~(B) Provision of utilities, including, where applicable, public or common sewer and/or water facilities;~~

~~(C) Provision of roads and other transportation facilities, including pedestrian trails and other facilities designed for non-motorized traffic, and including particularly provisions for connections to existing, planned or potential transportation facilities on adjacent properties;~~

~~(D) Protection of physical features having a recognized architectural, historic, scenic and/or economic value to the County; and~~

~~(E) Provision of open space of a size, shape and character to promote the uses designated for such open space and to protect and promote the rural character of the area, and provide for contiguous greenways and wildlife corridors.~~

(2) *That the Ordinance shall be effective upon adoption.*

ORDINANCE TO AMEND AND REORDAIN “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA” BY REPEALING §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2 AND 22-4-10.3, AND AMENDING §§ 19-8-1, 19-8-6, 22-4-2.1, AND 22-4-3, TO ELIMINATE RURAL CLUSTER SUBDIVISION REGULATIONS AND USE

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

- (1) *That the Code of the County of Fluvanna, Virginia is amended by repealing §§ 19-7-2, 22-4-10, 22-4-10.1, 22-4-10.2, and 22-4-10.3, and amending §§ 19-8-1, 19-8-6, 22-4-2.1, and 22-4-3, as follows:*

CHAPTER 19 SUBDIVISIONS

ARTICLE 7. – SUBDIVISION DESIGN STANDARDS

Sec. 19-7-2. – Repealed.

ARTICLE 8. – REQUIRED IMPROVEMENTS

Sec. 19-8-1. – Streets.

An adequate system of streets shall be constructed to provide access from all lots to the state highway system.

- (A) In any major subdivision, as defined herein, all streets shall be designed and constructed in conformance with the Virginia Department of Transportation's subdivision street requirements. Preliminary plans for all such streets shall have been approved by the Virginia Department of Transportation prior to approval of the preliminary plat.
- (B) Proposed street names shall be shown on the preliminary plat, and may be changed by the Subdivision Agent. Names of new streets shall not duplicate names of existing streets, irrespective of suffixes. Any street that is a continuation of an existing street shall bear the name of the existing street. The governing body may institute a fee in order to acquire and install all street identification signs. Where a street is planned for future extension, and a stub street serving three or more (≥ 3) lots is proposed for construction as part of a subdivision, a temporary turnaround shall be provided on such stub street. Such turnaround shall be of adequate location, size and design as determined by the Subdivision Agent. All stub streets shall be marked with a metal sign clearly providing public notice that the street is subject to future extension.
- (C) Any private road in a subdivision which will not be constructed to Virginia Department of Transportation standards shall be located in a right-of-way or easement at least fifty (50) feet in width and shall be so designed and built as to provide adequate access by ordinary passenger vehicles in all weather, in accordance with the provisions of this section as set forth hereinafter. All lots that are within a subdivision which is served by any private road shall be prohibited direct vehicular access from an existing public road by deed restriction or other means. Except in the

case of lots intended, designed and used for attached single-family, two-family or multi-family dwellings or for commercial or industrial uses, no lot served by a private road may be less than ten (10) acres in area, and no such private road shall serve more than five (5) lots. The plat, and each deed, shall clearly state that the county and Commonwealth are not responsible for the maintenance of the roads. A road maintenance agreement, approved by the County Attorney and the Subdivision Agent, shall be filed with the deeds of all lots to be served by such private road. Such agreement shall require the landowners, jointly and severally, to cooperate in and pay for the maintenance of the road such that emergency vehicles and other necessary traffic can reach all of the lots with reasonable ease. Each plat showing any such private road shall contain a certification from a registered surveyor or engineer in substantially the following form: "The private road shown on this plat will provide reasonable access to all lots served by such road by emergency vehicles and ordinary passenger vehicles as required by Section 19-8-1 of the Fluvanna County Code." Private roads shall conform to the following minimum specific construction standards:

Number of Lots	Right-of-Way Width	Minimum Width of Travelway	Surface Treatment	Minimum Ditchline	Maximum Grade
1-5	50 feet	14 feet	Gravel (#25 or #26), 3 inches in depth over suitable base	4 feet in width, with a minimum of 4% slope from the travelway and ditches a minimum of 18 inches in depth	9%

Sec. 19-8-6. – Recreation.

For any major subdivision, as defined in this chapter, if the average lot size for that subdivision is five acres or less (≤ 5), the subdivider shall provide space and facilities for recreation. Such space shall be clearly labeled on the plat, and shall be dedicated to an entity approved by the county for ownership and maintenance.

(A) Space for recreation shall be provided at the rate of 5,000 square feet per lot in the subdivision or 15 percent of the total acreage of the subdivision, whichever is more. This area shall not be developed for parking, roadways, refuse collection, or similar use. An area of one-half ($\frac{1}{2}$) acre or more shall be located within one-half ($\frac{1}{2}$) mile of each proposed dwelling unit as part of the recreation area, and shall be improved with facilities for sports, picnicking, tot lot equipment, active playground with equipment,

or similar uses.

(B) Each area reserved for recreation shall be of a size and shape conducive to the proposed recreational use.

CHAPTER 22 ZONING

ARTICLE 4. – AGRICULTURAL, GENERAL, DISTRICT A-1

Sec. 22-4-2.1. – Uses permitted by right.

The following uses shall be permitted by right:

Agricultural Uses

Agriculture

Conservation areas

Equestrian facilities

Farm sales

Hunt clubs

Hunting preserves

Civic Uses

Public parks and recreational areas

Public uses

Commercial Uses

Family daycare homes

Home occupations

Studios, fine arts

Industrial Uses

Sawmills, temporary

Miscellaneous Uses

Accessory uses
Cemeteries, non-commercial
Greenhouses, non-commercial
Kennels, private
Marinas, private non-commercial
Shooting, private recreational
Small scale solar generation facility
Utilities, minor
Wood storage, temporary

Residential Uses

Dwellings, accessory
Dwellings, two-family
Farm tenant housing
Group homes
Manufactured homes
Mobile homes, as defined in Section 22-4-2.3
Single-family detached dwellings, including family subdivisions and conventional minor subdivisions, but excluding conventional major subdivisions recorded after April 5, 2004
Short-term rental of a residential dwelling

Sec. 22-4-3. – Residential density; minimum lot size; dimensional requirements.

Maximum gross residential density and minimum lot size and minimum dimensional requirements for conventional development shall be as follows:

- (A) Gross residential density: one (1) dwelling unit per two (2) acres. In order to construct more than one dwelling on any one parcel, a sketch plan must be submitted that would demonstrate that all dwellings could be lawfully subdivided so as to be on their own lots.
- (B) Minimum lot size: two (2) acres
- (C) Minimum frontage required:
 - (1) Existing or proposed public roads, except as otherwise provided:
 - (a) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 500 feet
 - (b) All other public roads: 300 feet
 - (2) Private roads: 200 feet
- (D) Minimum lot width at minimum required setback shall be equal to the minimum required frontage.
- (E) Minimum setback required (as measured from edge of right-of-way):
 - (1) U.S. Route 250, U.S. Route 15, VA. Primary Routes 6, 53, and VA. Secondary Route 616: 200 feet
 - (2) All other public roads: 125 feet
 - (3) Private Roads: 100 feet
- (F) Minimum side yard: 50 feet
- (G) Minimum rear yard: 75 feet

Sec. 22-4-10. – Repealed.

Sec. 22-4-10.1. – Repealed.

Sec. 22-4-10.2. – Repealed.

Sec. 22-4-10.3. – Repealed.

- (2) *That the Ordinance shall be effective upon adoption.*

**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB E

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Public hearing to repeal and reenact Chapter 6 - Erosion and Sedimentation Control in its entirety to conform County code with current Virginia erosion and sediment control statutes and regulations.				
MOTION(s):	I move that the Board of Supervisors approve the repeal and reenactment of County Code Chapter 6 – Erosion and Sedimentation Control.				
BOS WORK PLAN?	Yes	No	If yes, list item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
	X				
STAFF CONTACT(S):	Dan Whitten, County Attorney				
PRESENTER(S):	Dan Whitten, County Attorney				
RECOMMENDATION:	Approve amendment the County Code				
TIMING:	Ordinance is effective after a public hearing and Board approval				
DISCUSSION:	<ul style="list-style-type: none"> • Except for the fee update, Chapter 6 has not been updated since 2015. • In June of 2023 the State Water Control Board approved and adopted the Virginia Erosion and Stormwater Management (VESM) Regulation (9VAC25-875) and approved the repeal of the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870). • The VESM Regulation and repeal of the other regulations became effective July 1, 2024. • Also, on July 1, 2024, Chapters 68 and 758 of the 2016 Acts of Assembly become effective. Those Acts, referred to as the “Consolidation Bill,” combine stormwater management and erosion and sediment control requirements under the Virginia Erosion and Stormwater Management Act (VESMA), §§ 62.1-44.15:24 through 62.1-44.15:50 of the Code of Virginia. • DEQ developed a VESCP model ordinance to incorporate requirements in the VESMA and VESM Regulation; that model ordinance is the basis for this revised Chapter 6. • If a VESCP authority elects to adopt more stringent ordinances, the authority must report to the DEQ when more stringent erosion and sediment control ordinances are determined to be necessary. 				
FISCAL IMPACT:	N/A				

POLICY IMPACT:	Amendment to the County Code				
LEGISLATIVE HISTORY:					
ENCLOSURES:	<ul style="list-style-type: none"> • Proposed ordinance to repeal and reenact County Code Chapter 6 - Erosion and Sedimentation Control • DEQ Memorandum re program consolidation 12/27/23 				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
	X				X



Commonwealth of Virginia

VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY

1111 E. Main Street, Suite 1400, Richmond, Virginia 23219

P.O. Box 1105, Richmond, Virginia 23218

(800) 592-5482

www.deq.virginia.gov

Travis A. Voyles
Secretary of Natural and Historic Resources

Michael S. Rolband, PE, PWD, PWS Emeritus
Director
(804) 698-4020

MEMORANDUM

To: All Local Virginia Erosion and Sediment Control Program Administrators
All Local Virginia Stormwater Management Program Administrators

From: Megan Mayfield, Director, Division of Water Permitting

Date: December 27, 2023

Subject: Virginia Erosion and Stormwater Management Program and Virginia Erosion and Sediment Control Program Model Ordinances

At the June 22, 2023 State Water Control Board (Board) meeting, the Board approved and adopted the Virginia Erosion and Stormwater Management (VESM) Regulation (9VAC25-875) and approved the repeal of the Erosion and Sediment Control Regulations (9VAC25-840), Erosion and Sediment Control and Stormwater Management Certification Regulations (9VAC25-850), and Virginia Stormwater Management Program Regulation (9VAC25-870). The VESM Regulation and repeal of the other regulations, will be effective July 1, 2024. The Final VESM Regulation was published on December 4, 2023 in the *Virginia Register of Regulations*, Volume 40 Issue 8. Below is a link to the final regulation:

[Vol. 40 Iss. 8 \(Final\) 9VAC25-840, Erosion And Sediment Control Regulations December 04, 2023 \(virginia.gov\)](#)

Also on July 1, 2024, Chapters 68 and 758 of the 2016 Acts of Assembly become effective. Those Acts, referred to as the “Consolidation Bill,” combine stormwater management and erosion and sediment control requirements under the Virginia Erosion and Stormwater Management Act (VESMA), §§ 62.1-44.15:24 through 62.1-44.15:50 of the Code of Virginia. Requirements for a Virginia Erosion and Sediment Control Program (VЕСP) are in the Erosion and Sediment Control Law (ESCL) for Localities Not Administering a Virginia Erosion and Stormwater Management Program, §§ 62.1-44.15:51 through 62.1-44.15:66 of the Code of Virginia. With the Consolidation Bill and VESM Regulation becoming effective on July 1, 2024, local ordinances for the administration of a Virginia Erosion and Sediment Control Program

(VESCP) or Virginia Stormwater Management Program (VSMP) will need to be updated to reflect both the new law and regulations.

Consistent with § 62.1-44.15:27 of the Code of Virginia, the Virginia Department of Environmental Quality (DEQ) has prepared a Virginia Erosion and Stormwater Management Program (VESMP) Model Ordinance and a Virginia Erosion and Sediment Control Program (VESCP) Model Ordinance to assist in the development of the appropriate local ordinance for your locality. The model ordinances incorporate requirements in the VESMA, ESCL for Localities Not Administering a Virginia Erosion and Stormwater Management Program, and VESM Regulation. Copies of each are attached for your use.

The DEQ is not required to review and/or approve the local ordinances, or associated documents, manuals, etc., prior to adoption. Please note that a locality may, by local ordinance adopted pursuant to § 62.1-44.15:33 or 62.1-44.15:65 of the Code of Virginia, establish more stringent local requirements. If a VESMP authority elects to adopt more stringent ordinances, the authority shall submit a letter report to the DEQ when more stringent stormwater management ordinances or more stringent requirements are authorized by such stormwater management ordinances. If a VESCP authority elects to adopt more stringent ordinances, the authority shall report to the DEQ when more stringent erosion and sediment control ordinances are determined to be necessary.

Please feel free to contact Rebecca Rochet if you have any questions or need additional assistance (Rebecca.Rochet@deq.virginia.gov or 804-801-2950).

ATTACHMENT A

VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM

MODEL ORDINANCE

Pursuant to §62.1-44.15:27 of the Code of Virginia, this ordinance is adopted as part of an initiative to integrate the [locality] stormwater management requirements with the [locality] erosion and sediment control, flood insurance, [and] flood plain management[, and Chesapeake Bay Preservation Act] requirements into a consolidated erosion and stormwater management program. The erosion and stormwater management program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities for land-disturbing activities into a more convenient and efficient manner for both the [locality] and those responsible for compliance with these programs.

Section 1.1. TITLE, PURPOSE, AND AUTHORITY.

- A. This ordinance shall be known as the "Erosion and Stormwater Management Ordinance of [locality / VESMP authority].
- B. The purpose of this ordinance is to ensure the general health, safety, and welfare of the citizens of [locality], protect the quality and quantity of state waters from the potential harm of unmanaged stormwater and soil erosion, including protection from a land disturbing activity causing unreasonable degradation of properties, water quality, stream channels, and other natural resources, and to establish procedures whereby stormwater requirements related to water quality and quantity shall be administered and enforced.
- C. This ordinance is authorized by § 62.1-44.15:27 of the Code of Virginia.

Section 1.2. DEFINITIONS.

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

"Adequate channel" means a channel that will convey the designated frequency storm event without overtopping the channel bank nor causing erosive damage to the channel bed or banks.

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Agreement in lieu of a plan" means a contract between the [VESMP authority] and the owner or permittee that specifies methods that shall be implemented to comply with the requirements of the VESMA and this ordinance for the construction of a (i) single-family detached residential structure or (ii) farm building or structure

on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; such contract may be executed by the [VESMP authority] in lieu of a soil erosion control and stormwater management plan.

"Applicant" means person submitting a soil erosion control and stormwater management plan to a VESMP authority for approval in order to obtain authorization to commence a land-disturbing activity.

"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.

1. "Nonproprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are in the public domain and are not protected by trademark or patent or copyright.
2. "Proprietary best management practice" means both structural and nonstructural practices to prevent or reduce the pollution of surface waters and groundwater systems that are privately owned and controlled and may be protected by trademark or patent or copyright.

"Board" means the State Water Control Board.

"Causeway" means a temporary structural span constructed across a flowing watercourse or wetland to allow construction traffic to access the area without causing erosion damage.

"Channel" means a natural stream or manmade waterway.

"Chesapeake Bay Preservation Act" means Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

"Chesapeake Bay Preservation Area" means any land designated by a local government pursuant to Part III (9VAC25-830-70 et seq.) of the Chesapeake Bay Preservation Area Designation and Management Regulations and § 62.1-44.15:74 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area as defined in the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830).

"Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC § 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.

"Cofferdam" means a watertight temporary structure in a river, lake, etc., for keeping the water from an enclosed area that has been pumped dry so that bridge foundations, dams, etc., may be constructed.

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

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

"Construction activity" means any clearing, grading, or excavation associated with large construction activity or associated with small construction activity.

"Control measure" means any BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"CWA and regulations" means the Clean Water Act and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this ordinance, it includes state program requirements.

"Dam" means a barrier to confine or raise water for storage or diversion, to create a hydraulic head, to prevent gully erosion, or to retain soil, rock or other debris.

"Denuded" means a term applied to land that has been physically disturbed and no longer supports vegetative cover.

"Department" means the Virginia Department of Environmental Quality.

"Development" means 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 nonagricultural or nonsilvicultural purposes. The regulation of discharges from development, for purposes of stormwater management, does not include the exclusions found in 9VAC25-875-860.

"Dike" means an earthen embankment constructed to confine or control water, especially one built along the banks of a river to prevent overflow of lowlands; levee.

"Discharge" when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

1. Any addition of any pollutant or combination of pollutants to state waters from any point source; or

2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"District" or "soil and water conservation district" means a political subdivision of the Commonwealth organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 of the Code of Virginia.

"Diversion" means a channel with a supporting ridge on the lower side constructed across or at the bottom of a slope for the purpose of intercepting surface runoff.

"Dormant" means denuded land that is not actively being brought to a desired grade or condition.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Energy dissipator" means a nonerodible structure which reduces the velocity of concentrated flow to reduce its erosive effects.

"Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

"Erosion and sediment control plan" means 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" means an area of land that is 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.

"ESC" means erosion and sediment control.

"ESM plan" means a soil erosion control and stormwater management plan, commonly referred to as the erosion control and stormwater management plan.

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400 of the Code of Virginia, and any related impervious services including roads, driveways, and parking areas.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means 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.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes the floodway designated by the Federal Emergency Management Agency.

"Flume" means a constructed device lined with erosion-resistant materials intended to convey water on steep grades.

"General permit" means a permit authorizing a category of discharges under the CWA and the VESMA within a geographical area.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset unless specifically identified as another order.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Incorporated place" means a city, town, township, or village that is incorporated under the Code of Virginia.

"Inspection" means an on-site review of the project's compliance with any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the implementation or enforcement of the VESMA and applicable regulations.

"Karst area" means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

"Karst features" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including construction activity such as the clearing, grading, excavating, or filling of land.

"Land-disturbance approval" means an approval allowing a land-disturbing activity to commence issued by the VESMP authority after the requirements of § 62.1-44.15:34 of the Code of Virginia have been met.

"Large construction activity" means construction activity including clearing, grading, and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Live watercourse" means a definite channel with bed and banks within which concentrated water flows continuously.

"Locality" means **[county, city, or town]**.

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

"Main channel" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Manmade" means constructed by man.

"Minimize" means to reduce or eliminate the discharge of pollutants to the extent achievable using stormwater controls that are technologically available and economically practicable.

"Minor modification" means modifications and amendments not requiring extensive review and evaluation including 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" means 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.

"Natural stream" means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

"Nonerodible" means a material, e.g., riprap, concrete, plastic, etc., that will not experience surface wear due to natural forces.

"Nonpoint source pollution" means 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.

"Operator" means the owner or operator of any facility or activity subject to the VESMA and this ordinance. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit or VESMP authority permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions).

"Owner" means the same as that term is defined in § 62.1-44.3 of the Code of Virginia. For a regulated land-disturbing activity that does not require a permit, "owner" also means the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in

possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" means a VPDES permit issued by the department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity.

"Permittee" means the person to whom the permit is issued.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Point source" means any discernible, confined, and discrete conveyance including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant discharge" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"Pollution" means such alteration of the physical, chemical, or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety, or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this ordinance.

"Post-development" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site or tract of land.

"Predevelopment" refers to the conditions that exist at the time that plans for the land-disturbing activity are submitted to the VESMP authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the commencement of land-disturbing activity shall establish predevelopment conditions.

"Prior developed lands" means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

"Qualified personnel" means a person knowledgeable in the principles and practices of erosion and sediment and stormwater management controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and quantity and to assess the effectiveness of any sediment and erosion control measures or stormwater management facilities selected to control the quality and quantity of stormwater discharges from the construction activity.

"Responsible land disturber" or "RLD" means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan or ESM plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan, ESM plan, or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

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

"Runoff characteristics" includes maximum velocity, peak flow rate, volume, and flow duration.

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

"Sediment basin" means a temporary impoundment built to retain sediment and debris with a controlled stormwater release structure.

"Sediment trap" means a temporary impoundment built to retain sediment and debris which is formed by constructing an earthen embankment with a stone outlet.

"Sheet flow" (also called overland flow) means shallow, unconcentrated and irregular flow down a slope. The length of strip for overland flow usually does not exceed 200 feet under natural conditions.

"Shoreline erosion control project" means an erosion control project approved by local wetlands boards, the Virginia Marine Resources Commission, the department, or the United States Army Corps of Engineers and located on tidal waters and within nonvegetated or vegetated wetlands as defined in Title 28.2 of the Code of Virginia.

"Site" means 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. Areas channelward of mean low water in tidal Virginia shall not be considered part of a site.

"Site hydrology" means the movement of water on, across, through, and off the site as determined by parameters including soil types, soil permeability, vegetative cover, seasonal water tables, slopes, land cover, and impervious cover.

"Slope drain" means tubing or conduit made of nonerosive material extending from the top to the bottom of a cut or fill slope with an energy dissipator at the outlet end.

"Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The department may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on an approved "total maximum daily load" (TMDL) that addresses the pollutants of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutants of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutants of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator shall certify to the department that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or provide an equivalent analysis. As of the start date in Table 1 of 9VAC25-31-1020, all certifications submitted in support of the waiver shall be submitted electronically by the owner or operator to the department in compliance with this subdivision and 40 CFR Part 3 (including, in all cases, 40 CFR Part 3 Subpart D), 9VAC25-875-940, and Part XI (9VAC25-31-950 et seq.) of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation. Part XI of 9VAC25-31 is not intended to undo existing requirements for

electronic reporting. Prior to this date, and independent of Part XI of 9VAC25-31, permittees may be required to report electronically if specified by a particular permit.

2. Any other construction activity designated by either the department or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Soil erosion" means the movement of soil by wind or water into state waters or onto lands in the Commonwealth.

"Soil erosion control and stormwater management plan," commonly referred to as the erosion control and stormwater management plan, or "ESM plan" means a document describing methods for controlling soil erosion and managing stormwater in accordance with the requirements adopted pursuant to the VESMA. The ESM plan may consist of aspects of the erosion and sediment control plan and the stormwater management plan as each is described in this ordinance.

"Stabilized" means land that has been treated to withstand normal exposure to natural forces without incurring erosion damage.

"State" means the Commonwealth of Virginia.

"State application" or "application" means the standard form or forms, including any additions, revisions, or modifications to the forms, approved by the administrator and the department for applying for a permit.

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

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

"Storm sewer inlet" means a structure through which stormwater is introduced into an underground conveyance system.

"Stormwater," for the purposes of the VESMA, means 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 conveyance system" means a combination of drainage components that are used to convey stormwater discharge, either within or downstream of the land-disturbing activity. This includes:

1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or other stormwater conveyance system constructed by man except for restored stormwater conveyance systems;
2. "Natural stormwater conveyance system" means the main channel of a natural stream and the flood-prone area adjacent to the main channel; or

3. "Restored stormwater conveyance system" means a stormwater conveyance system that has been designed and constructed using natural channel design concepts. Restored stormwater conveyance systems include the main channel and the flood-prone area adjacent to the main channel.

"Stormwater detention" means the process of temporarily impounding runoff and discharging it through a hydraulic outlet structure to a downstream conveyance system.

"Stormwater management facility" means a control measure that controls stormwater runoff and changes the characteristics of that runoff including the quantity and quality, the period of release or the velocity of flow.

"Stormwater management plan" means a document containing material describing methods for complying with the requirements of the VESMP.

"Stormwater Pollution Prevention Plan" or "SWPPP" means 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. A SWPPP required under the VESMP for construction activities shall identify and require the implementation of control measures and shall include or incorporate by reference an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan.

"Subdivision" means the same as defined in § 15.2-2201 of the Code of Virginia.

"Surface waters" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
 - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - c. That are used or could be used for industrial purposes by industries in interstate commerce;
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include

prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

"SWM" means stormwater management.

"Temporary vehicular stream crossing" means a temporary nonerodible structural span installed across a flowing watercourse for use by construction traffic. Structures may include bridges, round pipes or pipe arches constructed on or through nonerodible material.

"Ten-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in 10 years. It may also be expressed as an exceedance probability with a 10% chance of being equaled or exceeded in any given year.

"Total maximum daily load" or "TMDL" means 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.

"Town" means an incorporated town.

"Two-year storm" means a storm that is capable of producing rainfall expected to be equaled or exceeded on the average of once in two years. It may also be expressed as an exceedance probability with a 50% chance of being equaled or exceeded in any given year.

"Virginia Erosion and Stormwater Management Act" or "VESMA" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1, State Water Control Law, of Title 62.1 of the Code of Virginia.

"Virginia Erosion and Stormwater Management Program" or "VESMP" means a program established by the VESMP authority for the effective control of soil erosion and sediment deposition and the management of the quality and quantity of runoff resulting from land-disturbing activities to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources. The program shall include such items as local ordinances, rules, requirements for permits and land-disturbance approvals, policies and guidelines, technical materials, and requirements for plan review, inspection, and enforcement consistent with the requirements of the VESMA.

"Virginia Erosion and Stormwater Management Program authority" or "VESMP authority" means **[locality or the locality's designated entity]** approved by the department to operate the VESMP.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the department pursuant to the State Water Control Law

authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters.

"Virginia Stormwater BMP Clearinghouse" means a collection that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the VESMA and associated regulations.

"Virginia Stormwater Management Handbook" means a collection of pertinent information that provides general guidance for compliance with the VESMA and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

"Wasteload allocation" or "wasteload" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. Wasteload allocations are a type of water quality-based effluent limitation.

"Water quality technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control nonpoint source pollution.

"Water quantity technical criteria" means standards set forth in regulations adopted pursuant to the VESMA that establish minimum design criteria for measures to control localized flooding and stream channel erosion.

"Watershed" means 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.

"Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 2.1. VIRGINIA EROSION AND STORMWATER MANAGEMENT PROGRAM ESTABLISHED

Pursuant to § 62.1-44.15:27 of the Code of Virginia, [Locality] hereby establishes a Virginia Erosion and Stormwater Management Program for land-disturbing activities and adopts the Virginia Erosion and Stormwater Management Regulation that specify standards and specifications for VESMPs promulgated by the State Water Control Board for the purposes set out in Section 1.1 of this Ordinance. The [local governing body] hereby designates the [local official tasked with implementing the ordinance] as the Administrator of the Virginia Erosion and Stormwater Management Program established by this Ordinance.

Section 2.2. REGULATED LAND DISTURBING ACTIVITIES

A. Land-disturbing activities that meet one of the criteria below are regulated as follows:

1. [Land-disturbing activity that disturbs [10,000] [smaller area specified by the locality] square feet or more, is less than one acre, not in an area of a locality designated as a Chesapeake Bay Preservation Area, and not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation (Regulation).]

[COOSE APPLICABLE REQUIREMENT FOR No. 1 OR BOTH, AS APPLICABLE]

1. [Land-disturbing activity that disturbs [2,500] [smaller area specified by the locality] square feet or more, is less than one acre, and in an area of a locality designated as a Chesapeake Bay Preservation Area is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.]
2. Land-disturbing activity that disturbs less than one acre, but is part of a larger common plan of development or sale that disturbs one acre or more, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.
3. Land-disturbing activity that disturbs one acre or more is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.

B. Land-disturbing activities exempt per 9VAC25-875-90 are not required to comply with the requirements of the VESMA unless otherwise required by federal law.

Section 3.1. REVIEW AND APPROVAL OF PLANS (§ 62.1-44.15:34 of the Code of Virginia); PROHIBITIONS.

- A. [VESMP authority] shall review and approve soil erosion control and stormwater management (ESM) plans, except for activities not required to comply with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA), pursuant to § 62.1-44.15:34 of the Code of Virginia. Activities not required to comply with VESMA are defined in 9VAC25-875-90.

- B. A person shall not conduct any land-disturbing activity in **[Locality]** until:
1. An application that includes a permit registration statement, if required, a soil erosion control and stormwater management plan or an executed agreement in lieu of a plan, if required, has been submitted to **[VESMP authority]**;
 2. The name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 of the Code of Virginia is submitted to **[VESMP authority]**. **[Optional]** **[except that such certificate shall not be required where an agreement in lieu of a plan for construction of a single-family detached residential structure is provided; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30 of the Code of Virginia.]** Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided by the VESMA; and
 3. **[VESMP authority]** has issued its land-disturbance approval. In addition, as a prerequisite to engaging in an approved land-disturbing activity, the name of the individual who will be assisting the owner in carrying out the activity and holds a Responsible Land Disturber certificate pursuant to § 62.1-44.15:30 of the Code of Virginia shall be submitted to **[VESMP authority]**. **[Optional]** **[[VESMP authority] may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan for construction of a single-family detached residential structure; however, if a violation occurs during the land-disturbing activity for the single-family detached residential structure, then the owner shall correct the violation and provide the name of the individual holding a Responsible Land Disturber certificate as provided by § 62.1-14:30 of the Code of Virginia.]** Failure to provide the name of an individual holding a Responsible Land Disturber certificate prior to engaging in land-disturbing activities may result in revocation of the land-disturbance approval and shall subject the owner to the penalties provided the Act.
- C. **[VESMP authority]** may require changes to an approved ESM plan in the following cases:
1. Where inspection has revealed that the plan is inadequate to satisfy applicable regulations or ordinances; or
 2. Where the owner finds that because of changed circumstances or for other reasons the plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of the Act, are agreed to by the VESMP authority and the owner.

- D. In order to prevent further erosion, **[VESMP authority]** may require approval of an erosion and sediment control plan and a stormwater management plan for any land it identifies as an erosion impact area. (*§ 62.1-44.15:34*)
- E. Prior to issuance of any land-disturbance approval, **[VESMP authority]** may also require an applicant, excluding state agencies and federal entities, to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement it finds acceptable, to ensure that it can take measures at the applicant's expense should he fail, after proper notice, within the time specified to comply with the conditions it imposes as a result of his land-disturbing activity. If **[VESMP authority]** takes such action upon such failure by the applicant, it may collect from the applicant the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within 60 days of the completion of **[VESMP authority's]** 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.
- F. **[VESMP authority]** may enter into an agreement with an adjacent VESMP authority regarding the administration of multijurisdictional projects, specifying who shall be responsible for all or part of the administrative procedures. Should adjacent VESMP authorities fail to reach such an agreement, each shall be responsible for administering the area of the multijurisdictional project that lies within its jurisdiction.
- G. No exception to, or waiver of, post-development nonpoint nutrient runoff compliance requirements shall be granted unless offsite options have been considered and found not available in accordance with subsection D of § 62.1-44.15:35 of the Code of Virginia.
- H. **[VESMP authority]** is authorized to cooperate and enter into agreements with any federal or state agency in connection with the requirements for land-disturbing activities in accordance with § 62.1-44.15:50 of the Code of Virginia.

Section 3.2. REVIEW OF A SOIL EROSION CONTROL AND STORMWATER MANAGEMENT PLAN (ESM Plan).

- A. **[VESMP authority]** shall approve or disapprove an ESM plan according to the following:
1. **[VESMP authority]** shall determine the completeness of any application within 15 days after receipt, and shall act on any application within 60 days after it has been determined by the to be complete.
 2. **[VESMP authority]** shall issue either land-disturbance approval or denial and provide written rationale for any denial.

3. Prior to issuing a land-disturbance approval, **[VESMP authority]** shall be required to obtain evidence of permit coverage when such coverage is required.
4. **[VESMP authority]** also shall determine whether any resubmittal of a previously disapproved application is complete within 15 days after receipt and shall act on the resubmitted application within 45 days after receipt.

B. **[Optional for localities choosing to coordinate ESM plan review with the department]** Pursuant to subdivision B 2 of § 62.1-44.15:27 of the Code of Virginia, **[Locality]** has elected to coordinate the plan review component of its program with the department through an executed agreement. Review and approval or disapproval of ESM plans shall be conducted according to the following:

1. **[VESMP authority]** shall determine the completeness of any application within 15 days after receipt, and shall:
 - i. Act on any application within 60 days after it has been determined to be complete;
 - ii. Forward a soil erosion control and stormwater management plan to the department for review within five days of receipt. If the plan is incomplete, the department will return the plan to **[VESMP Authority]** immediately and the application process shall start over. If the plan is complete, the department will review it for compliance with the water quality and water quantity technical criteria and provide its recommendation to **[VESMP authority]**; and
 - iii. Either (i) issue the land-disturbance approval or (ii) issue a denial and provide a written rationale for the denial. In no case shall **[VESMP authority]** have more than 60 days for its decision on an application after it has been determined to be complete. Prior to issuing a land-disturbance approval, **[VESMP authority]** shall be required to obtain evidence of permit coverage when such coverage is required.
2. **[VESMP authority]** also shall forward to the department any resubmittal of a previously disapproved application within five days after receipt, and **[VESMP authority]** shall determine whether the plan is complete within 15 days of its receipt of the plan. The department will review the plan for compliance with the water quality and water quantity technical criteria and provide its recommendation to **[VESMP authority]**, and **[VESMP authority]** shall act on the resubmitted application within 45 days after receipt.

Section 3.3. STORMWATER PERMIT REQUIREMENT; EXEMPTIONS.

- A. Except as provided herein, no person may engage in any land-disturbing activity until a permit has been issued by **[VESMP authority]** in accordance with the provisions of this ordinance and the Regulation.

- B. Notwithstanding any other provisions of this ordinance, the following activities are not required to comply with the requirements of this ordinance unless otherwise required by federal law:
1. Minor land-disturbing activities, including home gardens and individual home landscaping, repairs, and maintenance work;
 2. Installation, maintenance, or repair of any individual service connection;
 3. Installation, maintenance, or repair of any underground utility line 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. Installation, maintenance, or repair of any septic tank line or drainage field 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 45.2 of the Code of Virginia;
 6. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including 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; or as additionally set forth by the Board in regulations. 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 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 the Code of Virginia;
 7. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
 8. 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 the VESMA and the regulations adopted pursuant thereto;
 9. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company;

10. 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, **[VESMP 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; and
 11. Discharges to a sanitary sewer or a combined sewer system; that are not from a land-disturbing activity.
- C. Notwithstanding this ordinance and in accordance with the Virginia Erosion and Stormwater Management Act, Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia, the following activities are required to comply with the soil erosion control requirements but are not required to comply with the water quantity and water quality technical criteria, unless otherwise required by federal law:
1. Activities under a state or federal reclamation program to return an abandoned property to an agricultural or open land use;
 2. 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; and
 3. Discharges from a land-disturbing activity to a sanitary sewer or a combined sewer system.

Section 4.1. STORMWATER POLLUTION PREVENTION PLAN; CONTENTS OF PLANS. (9VAC25-875-500)

- A. A stormwater pollution prevention plan shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection D of this section.
- B. A soil erosion control and stormwater management (ESM) plan consistent with the requirements of the Virginia Erosion and Stormwater Management Act (VESMA) and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by **[VESMP authority]** in accordance with the VESMA, this ordinance, and attendant regulations.
- C. A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from the construction site and describe control measures that will be used to minimize pollutants

in stormwater discharges from the construction site must be developed before land disturbance commences.

- D. In addition to the requirements of subsections A through C of this section, if a specific wasteload allocation for a pollutant has been established in an approved TMDL and is assigned to stormwater discharges from a construction activity, additional control measures must be identified and implemented by the operator so that discharges are consistent with the assumptions and requirements of the wasteload allocation.
- E. The stormwater pollution prevention plan must address the following requirements as specified in 40 CFR 450.21, to the extent otherwise required by state law or regulations and any applicable requirements of a state permit:
1. Control stormwater volume and velocity within the site to minimize soil erosion;
 2. Control stormwater discharges, including both peak flow rates and total stormwater volume, to minimize erosion at outlets and to minimize downstream channel and stream bank erosion;
 3. Minimize the amount of soil exposed during construction activity;
 4. Minimize the disturbance of steep slopes;
 5. Minimize sediment discharges from the site. The design, installation and maintenance of erosion and sediment controls must address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site;
 6. Provide and maintain natural buffers around surface waters, direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration, unless infeasible;
 7. Minimize soil compaction and, unless infeasible, preserve topsoil;
 8. Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating, or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the VESMP authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the VESMP authority; and
 9. Utilize outlet structures that withdraw water from the surface, unless infeasible, when discharging from basins and impoundments.

- F. The SWPPP shall be amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP. The SWPPP must be maintained 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.

Section 4.2. STORMWATER MANAGEMENT PLAN; CONTENTS OF PLAN. (9VAC25-875-510)

- A. A stormwater management plan shall be developed and submitted to [VESMP authority]. The stormwater management plan shall be implemented as approved or modified by [VESMP authority] and shall be developed in accordance with the following:
1. A stormwater management plan for a land-disturbing activity shall apply the stormwater management technical criteria set forth in this ordinance and Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation to the entire land-disturbing activity. Individual lots in new residential, commercial, or industrial developments, including those developed under subsequent owners, shall not be considered separate land-disturbing activities.
 2. A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff.
- B. A complete stormwater management plan shall include the following elements:
1. Information on the type of and location of stormwater discharges, information on the features to which stormwater is being discharged including surface waters or karst features if present, and predevelopment 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 or if allowed by the VESMP authority, the information provided and documented during the review process that addresses the current 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;
 5. Information on the proposed stormwater management facilities, including (i) detailed narrative on the conversion to a long-term stormwater management facility if the

- facility was used as a temporary ESC measure; (ii) the type of facilities; (iii) location, including geographic coordinates; (iv) acres treated; and (v) 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 these regulations;
 8. A map 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 planned locations of utilities, roads, and easements;
 9. If an operator intends to meet the requirements established in 9VAC25-875-580 or 9VAC25-875-600 through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included; and
 10. If **[VESMP authority]** requires payment of a fee with the stormwater management plan submission, the fee and the required fee form in accordance with Section 5-8 of this ordinance must have been submitted.
- C. All final plan elements, specifications, or calculations of the stormwater management plans whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 of the Code of Virginia shall be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth of

Virginia. Nothing in this subsection shall authorize any person to engage in practice outside his area of professional competence.

Section 4.3. POLLUTION PREVENTION PLAN; CONTENTS OF PLANS. (9VAC25-875-520)

- A. A plan for implementing pollution prevention measures during construction activities shall be developed, implemented, and updated as necessary. The pollution prevention plan shall detail the design, installation, implementation, and maintenance of effective pollution prevention measures as specified in 40 CFR 450.21(d) 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 in accordance with 40 CFR 450.21(e):
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 in accordance with 40 CFR 450.21(c).

Section 4.4. EROSION AND SEDIMENT CONTROL PLAN; CONTENTS OF PLANS (9VAC25-875-550)

- A. An erosion and sediment control plan, which is a component of the ESM plan, shall be filed for a development and the buildings constructed within, regardless of the phasing of

construction. The erosion and sediment control 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 in 9VAC25-875-560. The erosion and sediment control plan may include:

1. Appropriate maps;
 2. An appropriate soil and water plan inventory and management information with needed interpretations; and
 3. A record of decisions contributing to conservation treatment.
- B. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to [VESMP authority]. **[Note: The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan in accordance with § 62.1-44.15:34 or § 62.1-44.15:55 of the Code of Virginia.]**
- C. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan **[Optional] [or an "Agreement in Lieu of a Plan" signed by the property owner]**.
- D. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.

Section 5.1. 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, **[Locality]** hereby adopts the technical criteria for regulated land-disturbing activities set forth in Part V of 9VAC25-875 expressly to include 9VAC25-875-580 [water quality design criteria requirements]; 9VAC25-875-590 [water quality compliance]; 9VAC25-875-600 [water quantity]; 9VAC25-875-610 [offsite compliance options]; 9VAC25-875-620 [design storms and hydrologic methods]; 9VAC25-875-630 [stormwater harvesting]; 9VAC25-875-640 [linear development project]; and, 9VAC25-875-650 [stormwater management impoundment structures or facilities], which shall apply to all land-disturbing activities regulated pursuant to this ordinance, except as expressly set forth in Subsection B of this Section.
- B. Any land-disturbing activity shall be considered grandfathered and shall be subject to Article 4 (9VAC25-875-670 et seq) of Part V of the Regulation provided:

1. A proffered or conditional zoning plan, zoning with a plan of development, preliminary or final subdivision plat, preliminary or final site plan, or any document determined by **[locality]** to be equivalent thereto (i) was approved by **[locality]** prior to July 1, 2012, (ii) provided a layout as defined in 9VAC25-875-670, (iii) will comply with the technical criteria of Article 4 of Part V of 9VAC25-875, 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 the volume or rate of runoff;
 2. A permit has not been issued prior to July 1, 2014; and
 3. Land disturbance did not commence prior to July 1, 2014.
- C. Locality, state, and federal projects shall be considered grandfathered by **[VESMP authority]** and shall be subject to the technical criteria of Article 4 of Part V of 9VAC25-875 provided:
1. There has been an obligation of locality, state, or federal funding, in whole or in part, prior to July 1, 2012, or the department has approved a stormwater management plan prior to July 1, 2012;
 2. A 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 A and B of this section shall remain subject to the technical criteria of Article 4 of Part V of 9VAC25-875 for one additional 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 of Article 4 of Part V of 9VAC25-875.
- F. Nothing in this section shall preclude an operator from constructing to a more stringent standard at his discretion.

Section 5.2. LONG-TERM MAINTENANCE OF PERMANENT STORMWATER FACILITIES

- A. The operator shall submit a construction record drawing for permanent stormwater management facilities to **[VESMP authority]** in accordance with 9VAC25-875-535. The record drawing shall contain a statement signed by a professional registered in the Commonwealth of Virginia pursuant to Chapter 4 of Title 54.1 of the Code of Virginia, stating that to the best of their knowledge, the construction record drawing shows all adjustments and revisions to the Stormwater Management Plan made during

construction and serve as a permanent record of the actual location of all constructed elements.

- B. **[VESMP authority]** shall require the provision of long-term responsibility for and maintenance of stormwater management facilities 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 **[VESMP authority]** and shall at a minimum:
1. Be submitted to **[VESMP authority]** 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 **[VESMP authority]**; and
 5. Be enforceable by all appropriate governmental parties.
- C. **[Optional]** At the discretion of **[VESMP authority]**, such recorded instruments need not be required for stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which they are located, provided it is demonstrated to the satisfaction of **[VESMP authority]** that future maintenance for those facilities will be addressed through an enforceable mechanism at the discretion of **[VESMP authority]**.
- D. **[Optional]** If a recorded instrument is not required pursuant to Subsection C., **[VESMP authority]** 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 **[VESMP authority]** or its duly authorized agent.

Section 5.3. MONITORING AND INSPECTIONS.

- A. **[VESMP authority]** 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. Development, updating, and implementation of a pollution prevention plan; and

4. Development and implementation of any additional control measures necessary to address a TMDL.
- B. **[VESMP authority]** shall conduct periodic inspections on all projects during construction. **[VESMP authority]** shall either:
1. Provide for an inspection during or immediately following initial installation of erosion and sediment controls, at least once in every two-week period, within 48 hours following any runoff producing storm event, and at the completion of the project prior to the release of any performance bonds; or
 2. Establish an alternative inspection program which ensures compliance with the approved erosion and sediment control plan. Any alternative inspection program shall be:
 - i. Approved by the department prior to implementation;
 - ii. Established in writing;
 - iii. Based on a system of priorities that, at a minimum, address the amount of disturbed project area, site conditions and stage of construction; and
 - iv. Documented by inspection records.
- C. **[VESMP authority]** shall establish an inspection program that ensures that permanent stormwater management facilities are being adequately maintained as designed after completion of land-disturbing activities. Inspection programs shall:
1. Be approved by the department;
 2. Ensure that each stormwater management facility is inspected by **[VESMP authority]**, or its designee, not to include the owner, except as provided in subsections D and E of this section, at least once every five years; and
 3. Be documented by records.
- D. **[VESMP authority]** may utilize the inspection reports of the owner of a stormwater management facility as part of an inspection program established in subsection B of this section if the inspection is conducted by a person who is licensed as a professional engineer, architect, landscape architect, or land surveyor pursuant to Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1; a person who works under the direction and oversight of the licensed professional engineer, architect, landscape architect, or land surveyor; or a person who holds an appropriate certificate of competence from the department.

- E. If a recorded instrument is not required pursuant to 9VAC25-875-130, **[VESMP authority]** 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 **[VESMP authority]**.

Section 5.4. HEARINGS

- A. Any permit applicant or permittee, or person subject to the requirements of this ordinance, aggrieved by any action of the **[Locality]** taken without a formal hearing, or by inaction of the **[Locality]**, may demand in writing a formal hearing by the **[Local governing or appeals body]** causing such grievance, provided a petition requesting such hearing is filed with the **[locally designated administrator]** within 30 days after notice of such action is given by the Administrator.
- B. The hearings held under this Section shall be conducted by the **[local governing or appeals body]** at a regular or special meeting of the **[local governing or appeals body]**, or by at least one member of the **[local governing or appeals body]** designated by the **[local governing or appeals body]** to conduct such hearings on behalf of the **[local governing or appeals body]** at any other time and place authorized by the **[local governing or appeals body]**.
- C. A verbatim record of the proceedings of such hearings shall be taken and filed with the **[local governing or appeals body]**. Depositions may be taken and read as in actions at law.
- D. The **[local governing or appeals body]** or its designated member, as the case may be, shall have 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 local governing body, or its designated member, whose action may include the procurement of an order of enforcement from the circuit court. Witnesses who are subpoenaed shall receive the same fees and reimbursement for mileage as in civil actions.

Section 5.5. APPEALS.

[NOTE: The locality shall adopt an appeals procedure. This procedure should be appropriate for the erosion and stormwater management ordinance provisions and be consistent with the limitations within § 10.1-603.13 of Chapter 6 of Title 10.1 of the Code of Virginia.]

Section 5.6. RIGHT OF ENTRY.

- A. **[VESMP authority]** or any duly authorized agent thereof 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 ordinance.
- B. In accordance with a performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement, **[VESMP 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 conditions imposed by **[VESMP authority]** on a land-disturbing activity when an owner, after proper notice, has failed to take acceptable action within the time specified.

Section 5.7. ENFORCEMENT

- A. If the **[locally designated administrator]** determines that there is a failure to comply with the 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 Subsection 2 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 **[locally designated 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 [refer to local procedures]. Such orders shall become effective upon service on the person by certified mail, return receipt requested, sent to his address specified in the land records of the locality, or by personal delivery by an agent of the Administrator. However, if the **[locally designated 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 **[locally designated administrator]** may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with Subsection 5.7.C.
- B. In addition to any other remedy provided by this Ordinance, if the **[locally designated 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 [reference local public facilities/engineering manual and/or specific policy].
- 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 **[locally designated administrator]** may be compelled in a proceeding instituted in **[insert appropriate local court]** by the **[Locality]** to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- D. 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 **[locally designated administrator]** may be compelled in a proceeding instituted in **[insert appropriate local court]** by the Locality to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
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 9VAC25-880-70.
2. The **[locally designated 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 Subsection, 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 **[Locality]** shall be paid into the treasury of the **[Locality]** to be used for the purpose of minimizing, preventing, managing, or mitigating pollution of the waters of the locality 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 ordinance 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.

Section 5.8. FEES *[INCLUSION OF FEES IN THE ORDINANCE IS OPTIONAL]*

- A. Fees to cover costs associated with implementation of a VESMP related to land disturbing activities and issuance of general permit coverage and VESMP authority permits shall be imposed in accordance with Table 1. **[NOTE: Such fee attributes include the costs associated with plan review, VESMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with land-disturbing activities as well as state program oversight costs.]** When a site or sites has been purchased for development within a previously permitted common plan of development or sale, the applicant shall be subject to fees (“total fee to be paid by applicant” column) in accordance with the disturbed acreage of their site or sites according to Table 1.

Table 1: Fees for permit issuance

Fee type	Total fee to be paid by applicant (includes both VESMP authority and department portions where	Department portion of “total fee to be paid by applicant” (based on 28% of total fee paid*)
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$290	\$0
General / Stormwater Management - Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre.)	\$290	\$81
General / Stormwater Management - Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 acre and less than 5 Acres)	\$2,700	\$756
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$3,400	\$952
General / Stormwater Management – Large Construction Activity/Land Clearing [Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres]	\$4,500	\$1,260
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$6,100	\$1,708
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$9,600	\$2,688

* If the project is completely administered by the department such as may be the case for a state or federal project or projects covered by individual permits, the entire applicant fee shall be paid to the department.

- B. Fees for the modification or transfer of registration statements from the general permit issued by the department shall be imposed in accordance with Table 2. If the general permit modifications result in changes to stormwater management plans that require additional review by [Locality], such reviews shall be subject to the fees set out in Table 2. 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 Table 1.

Table 2: Fees for the modification or transfer of registration statements for the General Permit for Discharges of Stormwater from Construction Activities

Type of Permit	Fee Amount
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$20
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 1 and less than 5 acres)	\$200
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$250
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$300
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$450
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 100 acres)	\$700

- C. The following annual permit maintenance shall be imposed in accordance with Table 3, 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. **[NOTE: Fees specified in this Subsection go to the locality.]**

Table 3: Permit Maintenance Fees

Type of Permit	Fee Amount
Chesapeake Bay Preservation Act Land-Disturbing Activity (not subject to General Permit coverage; sites within designated areas of Chesapeake Bay Act localities with land-disturbance acreage equal to or greater than 2,500 square feet and less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Areas within common plans of development or sale with land disturbance acreage less than 1 acre)	\$50
General / Stormwater Management – Small Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance equal to or greater than 1 acre and less than 5 acres)	\$400
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 5 acres and less than 10 acres)	\$500
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 10 acres and less than 50 acres)	\$650
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater than 50 acres and less than 100 acres)	\$900
General / Stormwater Management – Large Construction Activity/Land Clearing (Sites or areas within common plans of development or sale with land disturbance acreage equal to or greater 100 acres)	\$1,400

General permit coverage maintenance fees shall be paid annually to the **[Locality]**, 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 of this section, 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.

- E. Permit and permit coverage maintenance fees outlined under Section 5.8 may apply to each general permit holder.
- F. No general permit application fees will be assessed to:
 - 1. Permittees who request minor modifications to general permits as defined in Section 1.2 of this ordinance. Permit modifications at the request of the permittee resulting in changes to stormwater management plans that require additional review by the **[locally designated 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 **[locally designated administrator]** or errors related to the acreage of the site.
- G. 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 §58.1-15 of the Code of Virginia 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. The **[Locality]** shall be entitled to all remedies available under the Code of Virginia in collecting any past due amount.

Section 5.9. Performance Bond (4VAC50-60-104.D and Code § 603.8(A)) [Optional]

- A. 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 **[Locality]** Attorney, to ensure that measures could be taken by the **[Locality]** 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 the **[Locality]** 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.

ATTACHMENT B

VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM

MODEL ORDINANCE

This model ordinance is intended for any locality that has chosen not to establish a Virginia Erosion and Stormwater Management Program (VESMP) pursuant to subdivision B 3 of § 62.1-44.15:27 of the Code of Virginia. These localities are required to administer a Virginia Erosion and Sediment Control Program (VESCP) for land disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq. of the Code of Virginia). For such a land-disturbing activity in a Chesapeake Bay Preservation Area, the **[VESCP authority]** also shall adopt requirements set forth in the Virginia Erosion and Stormwater Management Act and attendant regulations as required to regulate those activities in accordance with §§ 62.1-44.15:28 and 62.1-44.15:34 of the Code of Virginia.

Section 1.1. TITLE, PURPOSE, AND AUTHORITY

- A. This ordinance shall be known as the ‘Erosion and Sediment Control Ordinance of **[locality]**.’ The purpose of this ordinance is to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources of the **[locality]** by establishing requirements for the effective control of soil erosion, sediment deposition and non-agricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.
- B. This ordinance is authorized by § 62.1-44.15:54 of the Code of Virginia.

Section 1.2. DEFINITIONS

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Agreement in lieu of a plan" means a contract between the **[VESCP authority]** and the owner that specifies conservation measures that must be implemented to comply with the requirements of this ordinance for the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; this contract may be executed by the **[VESCP authority]** in lieu of formal site plan.

"Applicant" means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land-disturbing activities to commence.

"Board" means the State Water Control Board.

"Certified inspector for ESC" means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of project inspection or (ii) is enrolled in the department's training program for project inspection and successfully completes such program within one year after enrollment.

"Certified plan reviewer for ESC" means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of plan review, (ii) is enrolled in the department'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 Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator for ESC" means an employee or agent of the VESCP authority who holds a certification from the department in the classification of program administrator or (ii) is enrolled in the department's training program for program administration and successfully completes such program within one year after enrollment.

[INCLUDE ONLY IF THE LOCALITY IS IN A CBPA] "Chesapeake Bay Preservation Act" means Article 2.5 (§ 62.1-44.15:67 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia.

[INCLUDE ONLY IF THE LOCALITY IS IN A CBPA] "Chesapeake Bay Preservation Area" means any land designated by a local government pursuant to Part III (9VAC25-830-70 et seq.) of the Chesapeake Bay Preservation Area Designation and Management Regulations and § 62.1-44.15:74 of the Code of Virginia. A Chesapeake Bay Preservation Area shall consist of a Resource Protection Area and a Resource Management Area as defined in the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830).

"City" means the City of **[locality]**. **(If applicable.)**

"Clearing" means any activity which removes the vegetative ground cover including, root mat removal or topsoil removal. **(Optional or local definition may be used.)**

"County" means the County of **[locality]**. **(If applicable.)**

"Department" means the Virginia Department of Environmental Quality.

"District" or "Soil and Water Conservation District" refers to the **[name of district]** Soil and Water Conservation District. **(If applicable.)**

"Erosion and sediment control plan" or "plan" means 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" means an area of land that is 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.] **(Include shoreline reference, if applicable.)**

[OPTIONAL – ONLY INCLUDE IF LOCALITY WILL EXECUTE AN AGREEMENT IN LIEU] "Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Excavating" means any digging, scooping or other methods of removing earth materials. **(Optional or local definition.)**

"Filling" means any depositing or stockpiling of earth materials. **(Optional or local definition.)**

"Grading" means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions. **(Optional or local definition.)**

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Land-disturbing permit or approval" means a permit or an approval allowing a land-disturbing activity to commence issued by [VESCP authority] after the requirements of § 62.1-44.15:55 of the Code of Virginia have been met. **(Optional or local definition.)**

"Natural channel design concepts" means 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.

"Owner" means the same as provided in § 62.1-44.3 of the Code of Virginia. For a land-disturbing activity that is regulated under Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia and this ordinance, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permittee" means the person to whom the permit is issued.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Responsible Land Disturber" or "RLD" means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan or permit as defined in the Virginia Erosion

and Stormwater Management Regulation (9VAC25-875) as a prerequisite for engaging in land disturbance. The RLD must be designated on the erosion and sediment control plan or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

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

"Single-family detached residential structure" means a noncommercial dwelling that is occupied exclusively by one family.

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

"Transporting" means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs. **(Optional or local definition.)**

"Town" means the incorporated town of **[locality]**. **(If applicable.)**

"Virginia Erosion and Sediment Control Program" or "VESCP" means a program approved by the department 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 and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of the Erosion and Sediment Control Law (ESCL).

"Virginia Erosion and Sediment Control Program authority" or "VESCP authority," for purposes of this ordinance means **[locality]** that has been approved by the department to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1, the State Water Control Law, of Title 62.1 of the Code of Virginia.

"VESCP plan-approving authority" means the [local department or position title in locality] responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

"VPDES Permit" means a General VPDES (Virginia Pollutant Discharge Elimination System) Permit for Discharges of Stormwater from Construction Activities, 9VAC25-880, issued by the department pursuant to § 62.1-44.15 of the Code of Virginia for stormwater discharges from a land-disturbing activity. **(Optional or local definition.)**

Section 1.3. LOCAL EROSION AND SEDIMENT CONTROL PROGRAM

Pursuant to § 62.1-44.15:54 of the Code of Virginia, the **[VESCP authority]** hereby establishes a Virginia Erosion and Sediment Control Program (VESCP) and adopts the regulations promulgated by the Board (for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources) **[The following additional text is optional at the discretion of the VESCP authority:**

and the Virginian Stormwater Management Handbook]. In accordance with § 62.1-44.15:52 of the Code of Virginia, any plan approved prior to July 1, 2014 that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

- A. For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified 9VAC25-875-600, unless such land-disturbing activities are in accordance with the grandfathering provisions of 9VAC25-875-490.
- B. Pursuant to § 62.1-44.15:53 of the Code of Virginia, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer for ESC. Inspections of land-disturbing activities shall be conducted by a certified inspector for ESC. The Erosion and Sediment Control Program of [locality] shall contain a certified program administrator for ESC, a certified plan reviewer for ESC, and a certified inspector for ESC (who may be the same person.)
- C. The [locality] hereby designates [department or position title] as the VESCP plan-approving authority.
- D. The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the [department or position title].

Section 1.4. REGULATED LAND-DISTURBING ACTIVITIES

- A. Land-disturbing activities that meet one of the criteria below are regulated as follows:
 1. [Land-disturbing activity that disturbs [10,000] [smaller area specified by the locality] square feet or more, is less than one acre, not in an area of a locality designated as a Chesapeake Bay Preservation Area, and not part of a common plan of development or sale, is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation (Regulation).]
 2. Land-disturbing activity that disturbs [2,500] [smaller area specified by the locality] square feet or more, is less than one acre, and in an area of a locality designated as a Chesapeake Bay Preservation Area is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) and Article 3 (9VAC25-875-570 et seq.) of Part V unless Article 4 (9VAC25-875-670 et seq.) of Part V of the Regulation is applicable, as determined in accordance with 9VAC25-875-480 and 9VAC25-875-490.]

Section 1.5. ACTIVITIES NOT REQUIRED TO COMPLY WITH THE ESCL

- A. Notwithstanding any other provisions of the Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program (ESCL), the following activities are not required to comply with the ESCL unless otherwise required by federal law:
1. Disturbance of a land area of less than 10,000 [smaller area specified by the locality] square feet in size [USE ONLY IF LOCALITY HAS DESIGNATED CBPA -or less than 2,500 [smaller area specified by the locality] square feet in an area designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq. of the Code of Virginia)];
 2. Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;
 3. Installation, maintenance, or repair of any individual service connection;
 4. Installation, maintenance, or repair of any underground utility line 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;
 5. Installation, maintenance, or repair of any septic tank line or drainage field unless included in an overall plan for land-disturbing activity relating to construction of the building to be served by the septic tank system;
 6. Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.2 of the Code of Virginia;
 7. Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including 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; or as additionally set forth by the board in regulations. 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 the Code of Virginia;
 8. Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;

9. 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 Virginia 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 the ESCL and the regulations adopted pursuant thereto;
10. 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 VESCP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsections 1.6, 1.7 and 1.8 of this ordinance are required within 30 days of commencing the land-disturbing activity;
11. Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity; and
12. Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

Section 1.6. SUBMISSION AND APPROVAL OF PLANS; CONTENTS OF PLANS

- A. Except as provided herein, no person may engage in any regulated land-disturbing activity until he or she has submitted to the **[VESCP authority]** an erosion and sediment control plan for the regulated land-disturbing activity and such plan has been approved by the **[VESCP authority]**. No approval to begin a land disturbing activity will be issued unless evidence of VPDES permit coverage is obtained where it is required.
[OPTIONAL – USE IF LOCALITY ACCEPTS AGREEMENT IN LIEU Where the land-disturbing activity results from the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP plan-approving authority.]
- B. The standards contained within the "Virginia Erosion and Stormwater Management Regulation (9VAC25-875)" [optional to include: the Virginia Stormwater Management Handbook, as amended] and **[any local handbook or publication]** are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The VESCP plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the Virginia Erosion and Stormwater Management Regulation shall take precedence.
- C. The VESCP plan-approving 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 the Erosion and Sediment Control Law for Localities not Administering a Virginia Erosion and Stormwater Management Program and 9VAC25-875, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this ordinance. 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 the responsible land disturber to the VЕСP authority, as required by 9VAC25-875-300 and 9VAC25-875-550, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber, 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 ordinance.

[The following additional text is optional at the discretion of the VЕСP authority:

However, the VЕСP plan-approving authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan for construction of a single-family detached residential structure. If a violation occurs during the land-disturbing activity associated with the construction of the single-family detached residential structure, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of the responsible land disturber to the VЕСP authority. Failure to provide the name of the responsible land disturber shall be a violation of this ordinance. End of optional text.]

- D. When the 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 such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.
- E. The **[VЕСP 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.
- F. The **[VЕСP authority]** may require changes to an approved plan when:
 - 1. The inspection reveals that the plan is inadequate to satisfy applicable regulations; or
 - 2. The person responsible for carrying out the 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 ordinance, are agreed to by the VЕСP plan-approving authority and the person responsible for carrying out the plans.
- G. Variances: The VЕСP plan-approving authority may waive or modify any of the standards that are deemed to be inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

1. At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the VESCP plan-approving authority shall be documented in the plan.
 2. During construction, the person responsible for implementing the approved plan may request a variance in writing from the VESCP plan-approving authority. The VESCP plan-approving authority shall respond in writing either approving or disapproving such a request. If the VESCP plan-approving authority does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.
 3. The **[VESCP authority]** shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- H. In order to prevent further erosion, the **[locality]** may require approval of a plan for any land identified in the local program as an erosion impact area.
- I. When a 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.
- J. As an alternative to submitting soil erosion control and stormwater management plans pursuant to § 62.1-44.15:34 of the Code of Virginia to the **[VESCP authority]**, any person engaging in more than one jurisdiction in the creation and operation of a wetland mitigation or stream restoration bank that has been approved and is operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) a wetlands mitigation or stream restoration bank, pursuant to a mitigation banking instrument signed by the Department, 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 submit standards and specifications for Department approval that describe how land-disturbing activities shall be conducted.

Section 1.7. EROSION AND SEDIMENT CONTROL PLAN; CONTENTS OF PLANS

- A. An erosion and sediment control plan shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall be consistent with the criteria, techniques, and methods in 9VAC25-875-560. The erosion and sediment control 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 in 9VAC25-875-560. The erosion and sediment control plan may include:

1. Appropriate maps;
 2. An appropriate soil and water plan inventory and management information with needed interpretations; and
 3. A record of decisions contributing to conservation treatment.
- B. The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to the VESMP authority. [Note: The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan in accordance with § 62.1-44.15:34 or § 62.1-44.15:55 of the Code of Virginia.]
- C. If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan **[OPTIONAL IF LOCALITY ACCEPTS AN AGREEMENT IN LIEU: or an "Agreement in Lieu of a Plan" signed by the property owner]**.
- D. Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA, ESCL, or this ordinance if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.

Section 1.8. PERMITS; FEES; SECURITY FOR PERFORMANCE

- A. Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his application an approved erosion and sediment control plan, certification that the plan will be followed and evidence of VPDES permit coverage where it is required.
- B. No person may engage in any land-disturbing activity until he or she has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance), has paid the fees and has posted the required bond.
- C. An administrative fee of **[amount, fee schedule, or reference to local ordinance]** shall be paid to **[locality]** at the time of submission of the erosion and sediment control plan.
- D. No land-disturbing permit shall be issued until the applicant submits with his or her application an approved erosion and sediment control plan [or agreement in lieu of an approved erosion and sediment control plan] and certification that the plan will be followed.

- E. *The following additional text is optional at the discretion of the VESCP authority: All applicants for permits shall provide to the [locality] a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the [position title], to ensure that measures could be taken by the [locality] at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him or her 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 cost of the conservation action. Should it be necessary for the [locality] to take such conservation action, the [locality] may collect from the applicant any costs in excess of the amount of the surety held. Within sixty (60) days of adequate stabilization, as determined by [department or position title] in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits. [End of optional language.]

Section 1.9. MONITORING, REPORTS, AND INSPECTIONS

- A. The responsible land disturber, as provided by § 62.1-44.15:52, shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The person responsible for carrying out the plan shall monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- B. The [department or position title] shall periodically inspect the land-disturbing activity in accordance with 9VAC25-875-330 to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection and shall such inspection in accordance with § 62.1-44.15:60 and the land-disturbing permit.

If the [position title] determines that there is a failure to comply with the plan, notice to comply may be served upon the permittee or person responsible for carrying out the plan. Such notice shall be served by delivery by facsimile, e-mail, or other technology; by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, if available, or in the land records of the locality; or by delivery

at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice to comply shall specify the measures needed to comply with the land-disturbance approval conditions or shall identify the plan approval or land-disturbance approval needed to comply with this article and shall specify a reasonable time within which such measures shall be completed. Upon failure to comply within the specified time, any plan approval or land-disturbance approval may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this ordinance.

- C. Upon issuance of an inspection report denoting a violation of § 62.1-44.15:55 of the Code of Virginia, the [position title] may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the [position title] may issue an order 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 plan, such a stop work order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The stop work order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the [locality] or permit holder for appropriate relief to the Circuit Court of [locality] [or other appropriate court]. The [locality] shall serve such order for disturbance without an approved plan upon the owner by mailing with confirmation of delivery to the address specified in the land records. The order shall be posted on the site where the disturbance is occurring, and shall remain in effect until permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

If the alleged violator has not obtained an approved plan within seven days from the date of service of the stop work order, the [position title] may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan has been obtained. Such an order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the plan or the land records of [locality].

The owner may appeal the issuance of an order to the Circuit Court of **[locality]** **[or other appropriate court]**.

Any person violating or failing, neglecting or refusing to obey an order issued by **[position title]** may be compelled in a proceeding instituted in the Circuit Court of **[locality]** 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, the order shall immediately be lifted.

Nothing in this section shall prevent the **[position title]** from taking any other action authorized by this ordinance or other applicable laws.

Section 1.10. PENALTIES, INJUNCTIONS, AND OTHER LEGAL ACTIONS

- A. Any person who has violated or failed, neglected, or refused to obey any order, notice, or requirement of the **[VESCP authority]**, any condition of a land-disturbance approval, or any provision of this ordinance shall, upon a finding of the District Court of **[locality]**, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$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 which 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 which exceed a total of \$10,000.
- B. The **[position title]**, or the owner or property which has sustained damage, or which is in imminent danger of being damaged, may apply to the Circuit Court of **[locality]** to enjoin a violation or a threatened violation of §§ 62.1-44.15:55 or 62.1-44.15:58 of the Code of Virginia, 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 local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his property.

- C. In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to **[locality]** in a civil action for damages.
- D. Without limiting the remedies which 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 **[locality]**.

Any civil penalties assessed by a court shall be paid into the treasury of **[locality]**, except that where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

- E. With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance, or order of the **[VESCP authority]** the **[locality]** may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection D of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection A or D.
- F. The Commonwealth's Attorney shall, upon request of the **[locality]**, take legal action to enforce the provisions of this ordinance.

Section 1.11. APPEALS AND JUDICIAL REVIEW

- A. Final decisions of the **[locality]** under this ordinance shall be subject to review by the **[authority]** Circuit Court, provided 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.

ORDINANCE TO AMEND “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA,” BY REPEALING AND REENACTING CHAPTER 6 – EROSION AND SEDIMENTATION CONTROL IN ITS ENTIRETY TO CONFORM COUNTY CODE WITH CURRENT VIRGINIA EROSION AND SEDIMENT CONTROL STATUTES AND REGULATIONS

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

(1) That the Code of the County of Fluvanna, Virginia is amended by repealing Chapter 6 in its entirety and reenacting §§ 6-1-1 through 6-1-11 as follows:

ARTICLE 1. IN GENERAL

Sec. 6-1-1. Purpose.

~~The purpose of this chapter is to conserve the land, water, air and other natural resources of the County and promote the public health and welfare of the people in the County by establishing requirements for the control of erosion and sedimentation, and by establishing procedures whereby these requirements shall be administered and enforced.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

Sec. 6-1-1.1. Authority.

~~The County of Fluvanna has authority to establish the erosion and sedimentation controls described herein pursuant to section 62.1-44.15:54 of the Code of Virginia.~~

~~(Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

Sec. 6-1-2. Definitions.

~~For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:~~

~~Administrator. The official designated by the governing body to serve as its agent to administer this chapter, or his designee. The County Administrator for the County is hereby designated as Administrator of this chapter.~~

~~Agreement in Lieu of a Plan. A contract between the plan approving authority and the owner, specifying conservation measures which must be implemented in the construction of a single family residence; this contract may be executed by the plan approving authority in lieu of a formal site plan.~~

~~Applicant. Any person submitting an erosion and sediment control plan for approval or requesting the issuance of a permit, when required, authorizing land disturbing activities to commence.~~

~~Board. The Board of Supervisors of the County of Fluvanna.~~

~~Certified inspector. An employee or agent of the County who has been designated as such by the Administrator. A certified inspector shall (i) hold a certificate of competence from the Virginia Soil And Water Conservation Board in the area of project inspection or (ii) be enrolled in the Virginia Soil and Water Conservation~~

~~Board's training program for project inspection and successfully complete such program within one year after enrollment.~~

~~Certified plan reviewer. A County employee or agent who has been designated as such by the Administrator. A certified plan reviewer shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of plan review, (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for plan review and successfully complete such program within one year after enrollment, or (iii) be licensed as a professional engineer, architect, landscape architect or land surveyor pursuant to article 1 (section 54.1-400 et seq.) of chapter 4 of title 54.1 of the Code of Virginia, as amended, or professional soil scientist as defined in section 54.1-2200 of the Code of Virginia, as amended.~~

~~Certified Program Administrator. A County employee or agent designated as such by the Administrator. A Certified Program Administrator shall (i) hold a certificate of competence from the Virginia Soil and Water Conservation Board in the area of program administration or (ii) be enrolled in the Virginia Soil and Water Conservation Board's training program for program administration and successfully complete such program within one year after enrollment.~~

~~Clearing. Any activity which removes the vegetative ground cover including but not limited to the cutting or removal of vegetation, root material or topsoil.~~

~~County. The County of Fluvanna.~~

~~Erosion and sedimentation control plan or plan. A document containing material for the conservation of soil and water resources of a unit or a 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 assure 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 current land disturbing activity but 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.~~

~~Excavating. Any digging, scooping, or other methods of removing earth materials.~~

~~Filling. Any depositing or stockpiling of earth materials.~~

~~Grading. Any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled condition.~~

~~Land disturbing activity. Any man-made change to the land surface which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands including, but not limited to, clearing, grading, excavating, transporting, and filling of the land or any combination thereof. The following activities shall not be construed as "land disturbing activities" under this ordinance:~~

~~(A) Such minor land disturbing activities as home gardens and individual home landscaping, repairs and maintenance work.~~

~~(B) Individual service connections.~~

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

~~(D) 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.~~

~~(E) Intentionally omitted.~~

~~(F) Permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted pursuant to Title 45.1.~~

~~(G) Repair or rebuilding of the tracks, rights of way, bridges, communication facilities and other related structures and facilities of a railroad company.~~

~~(H) Disturbed land areas for commercial or noncommercial uses of less than 10,000 square feet in size.~~

~~(I) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.~~

~~(J) Emergency work to protect life, limb and property, and emergency repairs; provided, that if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, the land area disturbed shall be shaped and stabilized in accordance with the requirement of the VESCP authority.~~

~~(K) Tilling, planting, or harvesting of agricultural, horticultural, forest crops, livestock feedlot operations, or as additionally set forth by the Virginia Soil and Water Conservation Board in regulation; including engineering and agricultural engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the Dam Safety Act, Code of Virginia section 10.1-604 et seq., ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing; land drainage; 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 Code of Virginia section 10.1-1100 et seq. or is converted to bona fide agriculture or improved pasture use as described in subsection B of Code of Virginia section 10.1-1163.~~

~~Land disturbing permit. A permit issued by the County for clearing, filling, excavating, grading or transporting, or any combination thereof.~~

~~Owner. The owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a property.~~

~~Permittee. The person to whom the local permit authorizing land disturbing activities is issued or the person who certifies that the approved erosion and sediment control plan will be followed.~~

~~Plan approving authority. The County Administrator shall be the plan approving authority.~~

~~Program authority. The County of Fluvanna which has adopted a soil erosion and sediment control program approved by the Virginia Soil and Water Conservation Board.~~

~~Responsible Land Disturber. An individual from the project development team, who will be in charge of and responsible for carrying out a land disturbing activity covered by an approved plan or agreement in lieu of a plan, who (i) holds a Responsible Land Disturber certificate of competence, (ii) holds a current certificate of competence from the Virginia Soil and Water Conservation Board in the areas of Combined Administration, Program Administration, Inspection, or Plan Review, (iii) holds a current Contractor certificate of competence for erosion and sediment control, or (iv) is licensed in Virginia as a professional engineer, architect, certified landscape architect or land surveyor pursuant to article I (Code of Virginia section 54.1-40, et seq.) of chapter 4 of title 54.1.~~

~~Single family residence. A structure, other than a multi-family residential structure, maintained and used as a single dwelling unit or any dwelling unit which has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment nor any other essential facility or service with any other dwelling unit.~~

~~State law reference(s) — See Code of Va., § 55-248.4.~~

~~State waters. All waters on the surface and under the ground wholly or partially within or bordering the Commonwealth or within its jurisdiction.~~

~~Subdivision. See definition contained in the Fluvanna County Subdivision Ordinance.~~

~~Editor's note(s) — The Fluvanna County Subdivision Ordinance is found in Chapter 19 of this Code.~~

~~Transporting. Any moving of earth materials from one place to another, other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover, either by tracking or buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.~~

~~Virginia Erosion and Sediment Control authority (VESCP authority). An authority approved by the Virginia Soil and Water Conservation Board to operate a VESCP. In Fluvanna County this is the County Administrator or "Administrator."~~

~~Virginia Erosion and Sediment Control Program (VESCP). A program approved by the Virginia Soil and Water Conservation Board that has been 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 and shall include such items where applicable 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 section, and evaluation consistent with the requirements of this section and its associated regulations.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

~~Sec. 6-1-3. Erosion and sedimentation control plan required; applicability of Chapter.~~

~~(A) Pursuant to section 62.1-44.15:54 of the Code of Virginia, Fluvanna County hereby adopts the references, guidelines, standards and specifications promulgated by the Virginia Soil and Water Conservation Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources. Said regulations, references, guidelines, standards and specifications are included in but not limited to the~~

~~"Virginia Erosion and Sediment Control Regulations," the "Virginia Erosion and Sediment Control Handbook" and "Virginia Stormwater Management Handbook" as amended.~~

~~(B) Except as otherwise provided in this chapter, no person may engage in any land disturbing activity until such person has submitted to the Administrator an erosion and sediment control plan for such land disturbing activity and until that plan for such land disturbing activity has been reviewed and approved by the Administrator. Upon the development of an online reporting system by the Virginia Department of Environmental Quality, the Administrator shall obtain evidence of Virginia Stormwater Management Program permit coverage where it is required prior to providing approval to being land disturbance.~~

~~State law reference(s)— See Code of Va., § 62.1-44.15:55.~~

~~(C) The provisions of this chapter shall apply to all incorporated towns within the boundaries of the County, unless the governing body of any such town has, by appropriate action, adopted an Erosion and Sedimentation Control program specific to its jurisdiction.~~

~~(D) Electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies and railroad companies shall file general erosion and sedimentation control specifications annually with the Virginia Soil and Water Conservation Board for review and written comments.~~

~~(E) The provisions of this chapter shall not apply to state agency projects, except as provided for in section 62.1-44.15:56 of the Code of Virginia.~~

~~(F) A plan for which land disturbing activities involving lands under the jurisdiction of the County and one or more other localities may, at the option of the applicant, be submitted to the state division of soil and water conservation for the review and approval, rather than submission to each jurisdiction concerned. However, if the applicant chooses to submit his plans to the state division of soil and water conservation rather than the local jurisdiction he shall notify, by certified mail, the Administrator of his intention at the same time of submittal.~~

~~(G) The requirements of this chapter shall be integrated and implemented in conjunction with any project requiring compliance prior to any land disturbing activity, including subdivisions, site plans, and any other plans of development; those projects within the flood hazard overlay district established in the Zoning Ordinance, Chapter 22 of this Code; and any dam break inundation zone that has been mapped as provided in section 10.1-606.3 of the Code of Virginia.~~

~~(Ord. 6-20-07; Ord. 11-18-15)~~

~~State law reference(s)— See Code of Va., § 62.1-44.15:51.D.~~

~~Sec. 6-1-4. Erosion and sedimentation control plan standards and techniques; procedures generally.~~

~~An erosion and sedimentation control plan is required under this chapter. The erosion and sedimentation control plan shall detail those methods and techniques to be utilized in the control or erosion and sedimentation. The control plan will follow the format of the Virginia Erosion and Sediment Control Handbook.~~

~~Persons submitting plans under this chapter shall follow the procedures set forth in Article 2 of this chapter entitled, "Procedures for Plan Submission and Review, On-Site Inspection and Chapter Enforcement".~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-1-5. Fees generally.~~

~~The following fees for the land-disturbing permits and related reviews pursuant to this chapter shall be paid. The purpose of these fees is to defray the cost of program administration, including costs associated with the issuance of grading or land-disturbing permits, plan review, and periodic inspections for compliance with erosion and sediment control plans. The fee schedule set forth in this section shall supersede any fee schedule previously adopted with respect to such permits and related reviews.~~

~~Single Family \$125.00 per lot~~

~~All Other \$750.00 plus \$125.00/ac. \$1,000.00 plan review fee~~

~~*Editor's note—"with" in original; clerical error corrected.~~

~~The foregoing notwithstanding, except as otherwise expressly provided by law, none of the fees listed herein shall apply to any property owned by the County and used for County purposes.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 6-17-09; Ord. 7-6-16 Ord. of 07-03-2024(1), § 1, 7-3-2024)~~

~~Sec. 6-1-5.1. Reserved.~~

~~Sec. 6-1-6. Plan approval generally; changes in approved plans.~~

~~(A) The Administrator shall, within forty five (45) days of receipt of the plan, give written notice of approval to any erosion and sediment control plan submitted to the Administrator if it is determined that the plan meets the requirements of this chapter and the regulations of the Virginia Soil and Water Conservation Board, 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 will comply with the provisions of this chapter. In addition, as a prerequisite to engaging in the land-disturbing activities described in the approved plan, the person responsible for carrying out the plan shall provide the name of a Responsible Land Disturber, who will be in charge of and responsible for carrying out the land-disturbing activity in accordance with the approved plan. Failure to provide the name of an individual holding a certificate of competence shall be a violation of this chapter. Under the provisions of this ordinance, the owner of the property in question is ultimately responsible for the preparation, submission and approval of the erosion and sediment control plan.~~

~~(B) When a plan is determined to be inadequate, the Administrator shall, within forty five (45) days from receipt, give written notice of disapproval stating the specific reasons for disapproval. The Administrator shall specify such modifications terms and conditions as will permit approval of the plan and shall communicate these requirements to the applicant. If no action is taken by the Administrator within the time specified above, the plan shall be deemed approved and the person shall be authorized to proceed with the proposed activity. The Administrator shall act on any erosion and sediment control plan that has been previously disapproved within forty five (45) days after the plan has been revised, resubmitted for approval, and deemed adequate.~~

~~(C) The Administrator may require changes to any approved plan in the following cases:~~

~~(1) Where inspection has revealed the inadequacy of the plan to accomplish the objectives of this chapter and 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 chapter and associated regulations, are agreed to by the Administrator and the person responsible for carrying out the plan.~~

~~(D) All requests for variances must be made in writing, and approved in writing by the Administrator, and must be made in accordance with 9VAC25-840-40.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

~~Sec. 6-1-7. Approved plan required for issuance of building permit or other development permits; certification; bonding of performance.~~

~~(A) The building official, or any agent of the County, shall not issue any building or other permits for activities which involve land-disturbing activities, as defined by this chapter, unless the applicant submits with his application an approved erosion and sediment control plan or certification of such approved plan from the Administrator, certification that such plan will be followed, evidence of Virginia Stormwater Management Program permit coverage, where required, and written permission for the Administrator (or his agent) to conduct on-site inspections of the land-disturbing activity and of the conservation practices set forth in the plan.~~

~~(B) The Administrator, prior to approval of any erosion and sedimentation control plan, shall require of the applicant a reasonable performance bond with surety, cash escrow, letter of credit, or combination thereof, or such other legal arrangement as is acceptable to the Administrator to ensure that measures could be~~

~~taken by the County at the expense of the person conducting the land-disturbing activity should he fail, after proper notice, within the time specified to initiate or maintain appropriate conservation action which may be required of him in order to be in compliance with this chapter. The amount of the bond or other security 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 Fluvanna and a reasonable allowance for estimated administrative costs and inflation, not to exceed 25 percent of the estimated cost of the conservation action.~~

~~(C) If the County takes such measures upon such failure by the person conducting the land-disturbing activity and the costs of required corrective action exceed the security held, the Administrator may collect from such person the difference between the cost of the corrective action required and amount of the security held.~~

~~(D) Within sixty (60) days of the stabilization of the land-disturbing activity, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the owner or his agent or terminated, as the case may be.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

~~State law reference(s)—See Code of Va., § 62.1-44.15:57.~~

~~Sec. 6-1-8. Inspection and enforcement generally.~~

~~(A) Inspection and degree of enforcement of this chapter shall rest with the Administrator.~~

~~(B) The Administrator shall periodically inspect the land disturbing activity, in accordance with 9VAC25-840-60, to ensure compliance with the approved plan and to determine whether the measures required in that plan are effective in controlling erosion and sediment resulting from the land disturbing activity. The Administrator may require monitoring and reports from the person responsible for carrying out the plan. Furthermore, the County may inspect, monitor, and make reports for the Administrator, upon request. The right of entry to conduct such inspection shall be expressly reserved in the permit. The person responsible for carrying out the plan, or his duly designated representative, shall be given notice of the inspection and afforded the opportunity to accompany the inspectors.~~

~~(C) If the Administrator determines that the person responsible for carrying out the plan has failed to do so, the Administrator shall immediately serve such person with a notice to comply by registered or certified mail to the address specified in his permit application or by delivery at the site of the land-disturbing activity to the owner, agent or employee supervising such activities. Such notice shall set forth specifically the measures needed in order for the site to come into compliance with such plan and shall specify the time within which such measures shall be completed. If such person fails to comply within the time specified, the permit may be revoked and the permittee or the person responsible for carrying out the plan shall be deemed to be in violation of this chapter and upon conviction shall be subject to the penalties provided for herein.~~

~~(D) Upon issuance of an inspection report denoting a substantial violation of this chapter, the Administrator may, in conjunction with or subsequent to a notice to comply as specified above, issue an order requiring that all or part of the 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 erosion and sediment control plan, requiring that all of the land disturbing activities be stopped until an approved plan or any required permits are obtained. Where alleged noncompliance causes or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters within the watersheds of the Commonwealth, such an order may be issued whether or not the alleged violator has been issued a notice to comply as specified in subsection (C) of this section. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply. The order shall be served in the same manner as a notice to comply, and shall remain in effect for seven (7) days from the date of service pending~~

~~application by the enforcing authority or alleged violator for appropriate relief to the circuit court of the jurisdiction wherein the violation was alleged to have occurred. Upon completion of corrective action, the order shall be lifted immediately. The remedies provided for in this section are cumulative and shall not be construed to prevent the Administrator from taking any other action allowed by law.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

~~State law reference(s) — See Code of Va., § 62.1-44.15:58.~~

~~Sec. 6-1-9. Erosion impact areas.~~

~~The Board may designate areas in the County which shall be classified as erosion impact areas. Any such designation and classification shall be deemed to be a component of the local control program.~~

~~Consistent with this chapter, and in order to prevent further erosion, the Administrator may require the approval of a conservation plan for any erosion impact area. Such plan shall be subject to all review,~~

~~bonding, inspection and enforcement provisions of this chapter which apply to approved land disturbing permits. The plan shall be submitted by the property owner.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-1-10. Administrative appeal; judicial review.~~

~~Final decisions of the Administrator under this chapter shall be subject to review by the Board; provided, that an appeal is filed within 30 days from the date of any written decision by the Administrator.~~

~~Final decisions of the Board under this chapter shall be subject to review by the court of record of the County; provided, that an appeal is filed within 30 days from the date of final written decision.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-1-11. Violations and penalties.~~

~~(A) A violation of this chapter shall be deemed a Class 1 misdemeanor.~~

~~(B) The Administrator may apply to the circuit court of the County for injunctive relief to enjoin a violation or a threatened violation of this chapter, without the necessity of showing the nonexistence of an adequate remedy at law.~~

~~(C) In addition to any and all other remedies provided under this chapter, any person who violates any provision herein shall be liable to the County in a civil action for damages.~~

~~(D) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the state soil and water conservation board or the Administrator, such board or Administrator may provide an order against such person for the payment of civil charges for violations in specific sums not to exceed \$2,000.00 for each violation. The Administrator shall establish a schedule enumerating the violations and the associated civil charges.~~

~~(E) The Commonwealth's attorney, shall, upon request of the Administrator, take legal action to enforce the provisions of this chapter.~~

~~(F) Compliance with the provisions of this chapter 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.~~

~~(G) Nothing herein shall prevent the Administrator from or be a prerequisite to the Administrator taking any other action allowed by law or equity to remedy noncompliance with this chapter.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

~~State law reference(s) — See Code of Va., § 62.1-44.15:63.~~

~~Sec. 6-1-12. Conflicting requirements.~~

~~(A) The terms, conditions and provisions of this chapter shall in no way alter, diminish or change the terms, conditions or provisions of any other ordinance of the County.~~

~~(B) In the case of any conflict between any term, condition or provision of this chapter with any term, condition or provision of any other ordinance, the more restrictive term, condition or provision shall prevail.~~

~~(C) In the case of any conflict between any term, condition or provision of this chapter with any other term, condition or provision contained elsewhere in this chapter, the more restrictive term, condition or provision shall prevail.~~

~~(Ord. 6-20-07)~~

~~ARTICLE 2. PROCEDURES FOR PLAN SUBMISSION AND REVIEW, ON-SITE INSPECTION AND CHAPTER ENFORCEMENT~~

~~Sec. 6-2-1. Plan submission and preliminary erosion and sediment control plans.~~

~~(A) Generally. The applicant under this chapter shall submit five copies of black or blue line plans with a letter of transmittal. Such letter of transmittal shall contain:~~

- ~~(1) The name, address and phone number of the applicant.~~
- ~~(2) The name, address and phone number of the landowner of record.~~
- ~~(3) The name, address and phone number of the person responsible for carrying out the plan.~~
- ~~(4) Location of the site, including lot number and tax map number.~~
- ~~(5) Other information as may be requested by the plan approving authority.~~

~~(B) Final plan. The final plan shall consist of the narrative and maps as described in the Virginia Erosion and Sediment Control Handbook.~~

~~(1) The maps shall be prepared at a scale of not less than 1" = 100' and shall incorporate good engineering practices designed according to E & S Control Handbook guidelines.~~

~~(2) The map shall contain all information necessary for carrying out the conservation measures and will include a graphic scale, north arrow, date, owners of record, engineers certification (if required), approval signature block, vicinity map and contour lines.~~

~~(3) The map shall show other information as required by the Administrator.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-2-2. Preliminary plan for discussion, etc., purposes.~~

~~The applicant under this chapter may submit a preliminary erosion and sediment control plan for the purpose of discussion and advice. The preliminary plan should be clearly marked "Preliminary," should not be cluttered with detailed control measures, and may contain the following information:~~

~~(A) All major soil types.~~

~~(B) Approximate limits of clearing and grading.~~

~~(C) Tentative means of erosion and sediment control.~~

~~(D) Phasing of development to minimize area and duration of exposure.~~

~~(E) Contour lines.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord., 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-2-3. Department responsible for administering program.~~

~~All correspondence and plans should be directed to the Administrator.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-2-4. Plan review and approval procedures generally.~~

~~(A) The County Administrator has been designated as the plan approving authority.~~

~~(B) In reviewing plans, the Administrator may seek or receive recommendations or comments from the state department of transportation, health department and such other agencies deemed to have some responsibility in this area.~~

~~(C) (1) The preparation and submission of an erosion and sediment control plan to the Administrator shall be the responsibility of the owner, lessee, or duly authorized agent of either the owner or lessee.~~

~~(2) In determining the adequacy of the plan, the Administrator shall be guided by the recommendations contained in the Virginia Erosion and Sediment Control Handbook.~~

~~(3) The plan shall be approved, in writing, within forty five (45) days from the receipt thereof, if such plan meets the requirements of this chapter and the regulations of the Virginia Soil and Water Conservation Board, and if the person responsible for carrying out the plan certifies that he will properly perform the control measures included in the plan as required by this chapter.~~

~~(4) If the plan is disapproved, within forty five (45) days from the receipt thereof, the Administrator shall specify in writing such modification, terms and conditions as will permit approval of the plan and communicate these requirements to the applicant. The Administrator shall act on any erosion and sediment control plan that has been previously disapproved within forty five (45) days after the plan has been revised, resubmitted for approval, and deemed adequate.~~

~~(5) If no action is taken by the Administrator within forty five (45) days of receipt of the plan, the plan shall be deemed approved. Certification of this fact shall be provided by the Administrator to the permit issuing authority issuing building or other permits for the activities involving land-disturbing activities so that such permits may be issued.~~

~~(6) The Administrator may require changes to an approved plan:~~

~~(a) Where inspection has revealed the inadequacy of the plan to accomplish the erosion and sediment control objective of this chapter and applicable regulations, plan changes may be required without approval of the person responsible for carrying out the plan in order to comply with the minimum~~

standards promulgated by the Virginia Soil and Water Conservation Board and set forth in the Virginia Erosion and Sediment Control Handbook, which are assumed to be an integral part of every plan; or

(b) 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 the proposed amendments to the plan, consistent with the requirements of this chapter and applicable regulations, are agreed to by the Administrator and the person responsible for carrying out the plan.

(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; 11-18-15)

~~Sec. 6-2-5. Issuance of grading, building or other permits.~~

~~(A) The building official or any other agency authorized under any other provision of this Code or other law to issue building or other permits for land-disturbing activities shall not issue such permits unless:~~

~~(1) The applicant submits with his application the approved erosion and sediment control plan and certification that the plan will be followed, and evidence of Virginia Stormwater Management Program permit coverage, where it is required; or~~

~~(2) The applicant provides certification by the Administrator of such approved plan from the Administrator or certification by the Administrator that a plan was submitted and no action was taken within forty five (45) days; or~~

~~(3) The applicant provides certification from the state division of soil and water conservation, when applicable as specified herein, that the erosion and sediment control plan has been approved, and the applicant provides certification that the plan will be followed, and evidence of Virginia Stormwater Management Program permit coverage, where it is required.~~

~~(B) When the Administrator does not have in hand a certification that the person responsible for carrying out the plan has certified that he will properly perform the control measures included in the plan, the Administrator shall obtain the certification or performance prior to issuance of the permit.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

~~Sec. 6-2-6. Performance bond, cash escrow, letter of credit, etc.~~

~~(A) Generally. Bonding requirements are a necessary element of an effective control program.~~

~~(1) Bond: A bond with surety or other security approved by the Administrator made out to the Board in an amount equal to the full cost of conservation measures which are required by this chapter, such bond being legally sufficient to assure that such conservation measures will be carried out in accordance the provisions of this chapter.~~

~~(2) Escrow agreement: A fund delivered to a reputable banking institution by the applicant to be held by the bank until such time that all conservation measures have been performed as required by this chapter.~~

~~(3) Letter of Credit: An agreement by a bank made at the request of a customer to honor drafts or demands for payment by the County in the event of the failure of a person to whom a land-disturbing~~

~~permit has been issued to perform the requirements of an E&S plan as required by this chapter. Such letters of credit shall be accepted only if written by a bank with an office operating within the~~

~~Commonwealth and shall be in an amount equal to the full cost of conservation measures which are required by this chapter.~~

~~(B) Amount of coverage. The amount of coverage shall equal the total cost of the conservation measures. The amount will be determined by the Administrator or other acceptable person and shall be reviewed by the Administrator.~~

~~(C) Required for each project, etc. Bonding in some acceptable manner shall be required on each project to ensure that the conservation measures could be taken by the County, at the applicant's expense, should he fail within the time specified to initiate appropriate conservation action which may be required as a result of his land-disturbing activities. Such requirement will be a condition for issuance of building or other permits.~~

~~(1) No permit for building or other permits involving land-disturbing activities shall be issued by any department or agency of the County, until the requirements of this chapter and the erosion and sediment control program have been met with respect to the performance bonding.~~

~~(2) Certified checks shall be made payable to the Treasurer of Fluvanna County.~~

~~(3) Within sixty (60) days of the adequate stabilization of the land-disturbing activities, such bond, cash escrow or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated, as the case may be.~~

~~(4) These requirements are in addition to all other provisions of law related to the issuance of such permits and are not intended to otherwise affect the requirements for such permits.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-2-7. Erosion and sediment control agreement providing for right of entry, etc.~~

~~A legal instrument shall be executed by each applicant for an approved erosion and sediment control plan to provide right of entry by the appropriate persons for the purpose of inspection, monitoring, and installation, or maintenance of erosion and sediment control measures in the event the applicant fails to install or maintain such measures after notice in writing.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07; Ord. 11-18-15)~~

~~State law reference(s) — See Code of Va., § 62.1-44.15:60.~~

~~Sec. 6-2-8. Appeal of decision of Administrator, etc.~~

~~An appeal made pursuant to this chapter shall be filed with the Board within thirty (30) days of the date of any decision of the Administrator.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

~~Sec. 6-2-9. Responsibility of Administrator for on-site inspections, enforcement of chapter, etc.~~

~~The Administrator shall be responsible for the enforcement of this chapter and will direct the on-site inspection of each project. The Administrator shall also:~~

~~(A) Be responsible for developing and implementing a systematic program for on-site inspection to ensure that the erosion and sediment control measures on approved erosion control plans are actually provided.~~

~~(B) Be responsible for developing and maintaining a file system by land-disturbing projects. The file will contain a record of each inspection, date of inspection, date each land-disturbing activity commences and comments and other documents deemed necessary concerning compliance or noncompliance. The Administrator may require monitoring and reports from the person responsible for carrying out the plan. Furthermore, the County may inspect, monitor and make reports for the Administrator upon request.~~

~~(C) In cases of noncompliance, the report shall contain statements of the conservation measures needed for compliance and a recommended time in which such measures should be commenced or completed. Such reports will be communicated immediately to the proper authority.~~

~~(D) Upon determination that a violation exists, the Administrator shall prepare:~~

~~(1) Notice to comply, etc. A notice to comply which shall contain a detailed description of the conservation measures necessary for compliance. When no action is taken within forty-eight (48) hours of delivery of the notice to comply, the Administrator shall prepare a letter of intent to utilize the performance bond, cash escrow or letter of credit to apply the conservation measures to correct the deficiency. This letter of intent will be cleared by the County Attorney and sent by registered mail to the person responsible for carrying out the plan. If no action is taken within the time specified in the letter, depending on the urgency of the action, the building official will be requested in writing, with a copy to the person responsible for carrying out the plan, to undertake the corrective measures.~~

~~(2) A stop-work order:~~

~~(a) The Administrator may issue a stop-work order on all or part of a land-disturbing activity if a permit holder fails to comply with a notice to comply as provided for in paragraph (1) of this subsection.~~

~~(b) The Administrator may issue a stop-work order on all or part of a land-disturbing activity without first issuing a notice to comply if 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.~~

~~(c) The Administrator shall issue a stop-work order on all land-disturbing activity which is regulated by this chapter which has commenced without an approved plan or permit.~~

~~(d) Reserved.~~

~~(e) The Administrator shall notify all permit-issuing authorities to withhold all future permits to the permit holder until the violation is corrected, and, upon failure to comply within the time specified in the notice to comply, the permit for the project in violation may be revoked.~~

~~(f) The Administrator shall be responsible for handling complaints concerning absent or ineffective erosion control measures and will respond to a complaint within fifteen (15) days.~~

~~(g) When, upon investigation, it is determined that ineffective erosion control measures are being followed, but such measures comply with the erosion control plan, the Administrator shall be notified and shall act pursuant to Sections 6-1-4, 6-1-6 and 6-1-7 of this chapter.~~

~~(Comp. 1974, ch. 21; Ord. 10-21-92; Ord. 7-16-03; Ord. 6-20-07)~~

Sec. 6-1-1. – Title, Purpose and Authority

(A) This ordinance shall be known as the “Erosion and Sediment Control Ordinance of the County of Fluvanna.” The purpose of this ordinance is to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources of the County by establishing requirements for the effective control of soil erosion, sediment deposition and non-agricultural runoff and by establishing procedures whereby these requirements shall be administered and enforced.

(B) This ordinance is authorized by § 62.1-44.15:54 of the Code of Virginia, as amended.

Sec. 6-1-2. – Definitions

The following words and terms, when used in this ordinance, shall have the following meanings, unless the context clearly indicates otherwise.

“Agreement in lieu of a plan” means a contract between the County of Fluvanna and the owner that specifies conservation measures that must be implemented to comply with the requirements of this ordinance for the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent; this contract may be executed by the County of Fluvanna in lieu of formal site plan.

“Applicant” means any person submitting an erosion and sediment control plan for approval in order to obtain authorization for land-disturbing activities to commence.

“Board” means the State Water Control Board.

“Building Official” means both the person holding that position in Fluvanna County and his or her designees.

“Certified inspector for ESC” means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of project inspection or (ii) is enrolled in the Department’s training program for project inspection and successfully completes such program within one year after enrollment.

“Certified plan reviewer for ESC” means an employee or agent of the VESCP authority who (i) holds a certificate of competence from the department in the area of plan review, (ii) is enrolled in the department’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 Article 1 (§ 54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia, as amended, or professional soil scientist as defined in § 54.1-2200.

"Certified program administrator for ESC" means an employee or agent of the VESCP authority who holds a certification from the Department in the classification of program administrator or (ii) is enrolled in the Department's training program for program administration and successfully completes such program within one year after enrollment.

"Clearing" means any activity which removes the vegetative ground cover including, root mat removal or topsoil removal.

"County" means the County of Fluvanna.

"Department" means the Virginia Department of Environmental Quality.

"District" or "Soil and Water Conservation District" refers to the Thomas Jefferson Soil and Water Conservation District.

"Erosion and sediment control plan" or "plan" mean 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" means an area of land that is 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.

"Farm building or structure" means the same as that term is defined in § 36-97 of the Code of Virginia, as amended, and also includes any building or structure used for agritourism activity, as defined in § 3.2-6400, and any related impervious surfaces including roads, driveways, and parking areas.

"Excavating" means any digging, scooping or other methods of removing earth materials.

"Filling" means any depositing or stockpiling of earth materials.

"Grading" means any excavating or filling of earth material or any combination thereof, including the land in its excavated or filled conditions.

"Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that may result in soil erosion or has the potential to change its runoff characteristics, including the clearing, grading, excavating, transporting, and filling of land.

"Land-disturbing permit or approval" means a permit or an approval allowing a land-disturbing activity to commence issued by Fluvanna County after the requirements of § 62.1-44.15:55 of the Code of Virginia, as amended, have been met.

"Natural channel design concepts" means 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.

"Owner" means the same as provided in § 62.1-44.3 of the Code of Virginia, as amended. For a land-disturbing activity that is regulated under Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1 of Title 62.1 of the Code of Virginia as amended and this ordinance, "owner" also includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm, or corporation in control of a property.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permanent stabilization" means the establishment of a perennial vegetative ground cover consisting of a mixture of plant materials prescribed by the approved plan. Permanent stabilization shall not be considered established until a ground cover is achieved that is uniform, mature enough to survive, and will inhibit erosion.

"Permittee" means the person to whom the permit is issued.

"Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, county, city, town, or other political subdivision of the Commonwealth, governmental body, including a federal or state entity as applicable, any interstate body, or any other legal entity.

"Responsible Land Disturber" or "RLD" means an individual holding a certificate issued by the department who is responsible for carrying out the land-disturbing activity in accordance with the approved erosion and sediment control plan. The RLD may be the owner, applicant, permittee, designer, superintendent, project manager, contractor, or any other project or development team member. The RLD must be designated on the erosion and sediment control plan or permit as defined in the Virginia Erosion and Stormwater Management Regulation (9VAC25-875) as a prerequisite for engaging in land disturbance. The RLD must be designated on the erosion and sediment control plan or permit as defined in this ordinance as a prerequisite for engaging in land disturbance.

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

"Single-family detached residential structure" means a noncommercial dwelling that is occupied exclusively by one family.

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

"Transporting" means any moving of earth materials from one place to another place other than such movement incidental to grading, when such movement results in destroying the vegetative ground cover either by tracking or the buildup of earth materials to the extent that erosion and sedimentation will result from the soil or earth materials over which such transporting occurs.

"Virginia Erosion and Sediment Control Program" or "VЕСP" means a program approved by the Department that is established by a VЕСP 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 and shall include such items where applicable as local ordinances, rules, policies and guidelines, technical materials, and requirements for plan review, inspection, and evaluation consistent with the requirements of the Erosion and Sediment Control Law (ESCL).

"Virginia Erosion and Sediment Control Program authority" or "VЕСP authority," for purposes of this ordinance means the County of Fluvanna, which has been approved by the Department to operate a Virginia Erosion and Sediment Control Program in accordance with Article 2.4 (§ 62.1-44.15:51 et seq.) of Chapter 3.1, the State Water Control Law, of Title 62.1 of the Code of Virginia, as amended.

"VЕСP plan-approving authority" means the Fluvanna County Building Official or his or her designee, who is responsible for determining the adequacy of a plan submitted for land-disturbing activities on a unit or units of lands and for approving plans.

"VPDES Permit" means a General VPDES (Virginia Pollutant Discharge Elimination System) Permit for Discharges of Stormwater from Construction Activities, 9VAC25-880, issued by the Department pursuant to § 62.1-44.15 of the Code of Virginia, as amended, for stormwater discharges from a land-disturbing activity.

Sec. 6-1-3. – Local Erosion and Sediment Control Program

Pursuant to § 62.1-44.15:54 of the Code of Virginia, as amended, Fluvanna County establishes a Virginia Erosion and Sediment Control Program (VЕСP) and adopts the regulations promulgated by the Board for the effective control of soil erosion and sediment deposition to prevent the unreasonable degradation of properties, stream channels, waters and other natural resources and the Virginia Stormwater Management Handbook. In

accordance with § 62.1-44.15:52 of the Code of Virginia, as amended, any plan approved prior to July 1, 2014 that provides for stormwater management that addresses any flow rate capacity and velocity requirements for natural or man-made channels shall satisfy the flow rate capacity and velocity requirements for natural or man-made channels if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5, 2, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels.

- (A) For plans approved on and after July 1, 2014, the flow rate capacity and velocity requirements for natural and man-made channels shall be satisfied by compliance with water quantity requirements specified 9VAC25-875-600, unless such land-disturbing activities are in accordance with the grandfathering provisions of 9VAC25-875-490.
- (B) Pursuant to § 62.1-44.15:53 of the Code of Virginia, as amended, an erosion control plan shall not be approved until it is reviewed by a certified plan reviewer for ESC. Inspections of land-disturbing activities shall be conducted by a certified inspector for ESC. The Erosion and Sediment Control Program of Fluvanna County shall contain a certified program administrator for ESC, a certified plan reviewer for ESC, and a certified inspector for ESC (who may be the same person).
- (C) The County hereby designates the Building Official, or his or her designee, as the VESCP plan-approving authority.
- (D) The program and regulations provided for in this ordinance shall be made available for public inspection at the office of the Building Official.

Sec. 6-1-4. – Regulated land-disturbing activities

- (A) Land-disturbing activities that meet one of the criteria below are regulated as follows:
 - (1) Land-disturbing activity that disturbs 10,000 square feet or more is subject to criteria defined in Article 2 (9VAC25-875-540 et seq.) of Part V of the Virginia Erosion and Stormwater Management Regulation (Regulation).

Sec. 6-1-5. - Activities not required to comply with the ESCL

(A) Notwithstanding any other provisions of the Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program (ESCL), the following activities are not required to comply with the ESCL unless otherwise required by federal law:

- (1) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work;**
- (2) Installation, maintenance, or repair of any individual service connection;**
- (3) Installation, maintenance, or repair of any underground utility line 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) Installation, maintenance, or repair of any septic tank line or drainage field 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 45.2 of the Code of Virginia, as amended;**
- (6) Clearing of lands specifically for bona fide agricultural purposes; the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops; livestock feedlot operations; agricultural engineering operations, including 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; or as additionally set forth by the board in regulations. 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, as amended, or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Code of Virginia, as amended;**
- (7) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;**
- (8) 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 VESCP authority shall be advised of the disturbance within seven days of commencing the land-disturbing activity, and compliance with the administrative requirements of subsections 1.6, 1.7 and 1.8 of this ordinance are required within 30 days of commencing the land-disturbing activity;**

- (9) Discharges to a sanitary sewer or a combined sewer system that are not from a land-disturbing activity; and
- (10) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities, and other related structures and facilities of a railroad company.

Sec. 6-1-6. - Submission and approval of plans; contents of plans

- (A) Except as provided herein, no person may engage in any regulated land-disturbing activity until he or she has submitted to the Building Official an erosion and sediment control plan for the regulated land-disturbing activity and such plan has been approved by the Building Official. No approval to begin a land disturbing activity will be issued unless evidence of VPDES permit coverage is obtained where it is required. Where the land-disturbing activity results from the construction of a (i) single-family detached residential structure or (ii) farm building or structure on a parcel of land with a total impervious cover percentage, including the impervious cover from the farm building or structure to be constructed, of less than five percent, an agreement in lieu of a plan may be substituted for an erosion and sediment control plan if executed by the VESCP plan-approving authority.
- (B) The standards contained within the "Virginia Erosion and Stormwater Management Regulation" (9VAC25-875) and the Virginia Stormwater Management Handbook, as amended, are to be used by the applicant when making a submittal under the provisions of this ordinance and in the preparation of an erosion and sediment control plan. The VESCP plan-approving authority, in considering the adequacy of a submitted plan, shall be guided by the same standards, regulations and guidelines. When the standards vary between the publications, the Virginia Erosion and Stormwater Management Regulation shall take precedence.
- (C) The VESCP plan-approving 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 the Erosion and Sediment Control Law for Localities not Administering a Virginia Erosion and Stormwater Management Program and 9VAC25-875, and if the person responsible for carrying out the plan certifies that he or she will properly perform the erosion and sediment control measures included in the plan and will comply with the provisions of this ordinance. 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 the responsible land disturber to the VESCP authority, as required by 9VAC25-875-300 and 9VAC25-875-550, who will be in charge of and responsible for carrying out the land-disturbing activity. Failure to provide the name of the responsible land disturber 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 ordinance. However, the VESCP plan-approving authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan for construction of a single-family detached residential structure. If a violation occurs during the land-disturbing activity associated with the construction of the single-family detached residential structure, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and provide the name of the responsible land disturber to the VESCP authority. Failure to provide the name of the responsible land disturber shall be a violation of this ordinance.

(D) When the 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 such modifications, terms and conditions that will permit approval of the plan. If no action is taken within 45 days, the plan shall be deemed approved and the person authorized to proceed with the proposed activity.

(E) The Building Official 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.

(F) The Building Official may require changes to an approved plan when:

(1) The inspection reveals that the plan is inadequate to satisfy applicable regulations; or

(2) The person responsible for carrying out the 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 ordinance, are agreed to by the Building Official and the person responsible for carrying out the plans.

(G) Variances: The Building Official may waive or modify any of the standards that are deemed to be inappropriate or too restrictive for site conditions, by granting a variance. A variance may be granted under these conditions:

(1) At the time of plan submission, an applicant may request a variance to become part of the approved erosion and sediment control plan. The applicant shall explain the reasons for requesting variances in writing. Specific variances which are allowed by the Building Official shall be documented in the plan.

(2) During construction, the person responsible for implementing the approved plan may request a variance in writing from the Building Official. The Building Official shall respond in writing either approving or disapproving

such a request. If the Building Official does not approve a variance within 10 days of receipt of the request, the request shall be considered to be disapproved. Following disapproval, the applicant may resubmit a variance request with additional documentation.

- (3) The Building Official shall consider variance requests judiciously, keeping in mind both the need of the applicant to maximize cost effectiveness and the need to protect off-site properties and resources from damage.
- (H) In order to prevent further erosion, the County may require approval of a plan for any land identified in the local program as an erosion impact area.
- (I) When a 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.
- (J) As an alternative to submitting erosion and sediment control and stormwater management plans pursuant to § 62.1-44.15:34 of the Code of Virginia, as amended, to Fluvanna County, any person engaging in more than one jurisdiction in the creation and operation of a wetland mitigation or stream restoration bank that has been approved and is operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of (i) a wetlands mitigation or stream restoration bank, 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 submit standards and specifications for Department approval that describe how land-disturbing activities shall be conducted.

Sec. 6-1-7. - Erosion and sediment control plan; contents of plans

- (A) An erosion and sediment control plan shall be filed for a development and the buildings constructed within, regardless of the phasing of construction. The erosion and sediment control plan shall be consistent with the criteria, techniques, and methods in 9VAC25-875-560. The erosion and sediment control 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 in 9VAC25-875-560. The erosion and sediment control plan may include:
- (1) Appropriate maps;
- (2) An appropriate soil and water plan inventory and management information with needed interpretations; and

- (3) A record of decisions contributing to conservation treatment.
- (B) The person responsible for carrying out the plan shall provide the name of an individual holding a certificate who will be in charge of and responsible for carrying out the land-disturbing activity to the VESMP authority. Note: The VESMP authority may waive the Responsible Land Disturber certificate requirement for an agreement in lieu of a plan in accordance with § 62.1-44.15:34 or § 62.1-44.15:55 of the Code of Virginia, as amended.
- (C) If individual lots or sections in a residential development are being developed by different property owners, all land-disturbing activities related to the building construction shall be covered by an erosion and sediment control plan or an "Agreement in Lieu of a Plan" signed by the property owner.
- (D) Land-disturbing activity of less than 10,000 square feet on individual lots in a residential development shall not be considered exempt from the provisions of the VESMA, ESCL, or this ordinance if the total land-disturbing activity in the development is equal to or greater than 10,000 square feet.

Sec. 6-1-8. - Permits; fees; security for performance

- (A) Agencies authorized under any other law to issue grading, building, or other permits for activities involving land-disturbing activities shall not issue any such permit unless the applicant submits with his or her application an approved erosion and sediment control plan, certification that the plan will be followed, and evidence of VPDES permit coverage where it is required.
- (B) No person may engage in any land-disturbing activity until he or she has acquired a land-disturbing permit (unless the proposed land-disturbing activity is specifically exempt from the provisions of this ordinance), has paid the fees and has posted the required bond.
- (C) The following fees for the land-disturbing permits and related reviews pursuant to this chapter shall be paid. The purpose of these fees is to defray the cost of program administration, including costs associated with the issuance of grading or land disturbing permits, plan review, and periodic inspections for compliance with erosion and sediment control plans. The fee schedule set forth in this section shall supersede any fee schedule previously adopted with respect to such permits and related reviews.

<u>Single Family</u>	<u>\$125 per lot</u>
<u>All other</u>	<u>\$750 plus \$125/acre</u> <u>\$1000 plan review fee</u>

The foregoing notwithstanding, except as otherwise expressly provided by law, none of the fees listed herein shall apply to any property owned by the County and used for County purposes.

- (D) No land-disturbing permit shall be issued until the applicant submits with his or her application an approved erosion and sediment control plan or agreement in lieu of an approved erosion and sediment control plan and certification that the plan will be followed.
- (E) All applicants for permits shall provide to the County a performance bond with surety, cash escrow, or an irrevocable letter of credit acceptable to the Building Official, to ensure that measures could be taken by the County at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate conservation measures required of him or her by the approved plan as a result of his or her 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 cost of the conservation action. Should it be necessary for the County to take such conservation action, the County may collect from the applicant any costs in excess of the amount of the surety held. Within sixty (60) days of permanent stabilization, as determined by the Building Official in any project or section of a project, such bond, cash escrow or letter of credit, or the unexpended or unobligated portion thereof, shall be either refunded to the applicant or terminated, based upon the percentage of stabilization accomplished in the project or project section. These requirements are in addition to all other provisions relating to the issuance of permits and are not intended to otherwise affect the requirements for such permits.

Sec. 6-1-9. - Monitoring, reports and inspections

- (A) The responsible land disturber, as provided by § 62.1-44.15:52, shall be in charge of and responsible for carrying out the land-disturbing activity and provide for periodic inspections of the land-disturbing activity. The person responsible for carrying out the plan shall monitor the land-disturbing activity. The person responsible for carrying out the plan will maintain records of these inspections and maintenance, to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (B) The Building Official shall periodically inspect the land-disturbing activity in accordance with 9VAC25-875-330 to ensure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection and

shall allow such inspection in accordance with § 62.1-44.15:60 and the land-disturbing permit.

If the Building Official determines that there is a failure to comply with the plan, notice to comply may be served upon the permittee or person responsible for carrying out the plan. Such notice shall be served by delivery by facsimile, email, or other technology; by mailing with confirmation of delivery to the address specified in the permit application or in the plan certification, if available, or in the land records of the County; or by delivery at the site of the land-disturbing activities to the agent or employee supervising such activities.

The notice to comply shall specify the measures needed to comply with the land-disturbance approval conditions or shall identify the plan approval or land-disturbance approval needed to comply with this article and shall specify a reasonable time within which such measures shall be completed. Upon failure to comply within the specified time, any plan approval or land-disturbance approval may be revoked and the permittee or person responsible for carrying out the plan shall be subject to the penalties provided by this ordinance.

(C) Upon issuance of an inspection report denoting a violation of § 62.1-44.15:55 of the Code of Virginia, as amended, the Building Official may, in conjunction with or subsequent to a notice to comply as specified in this ordinance, issue an order requiring that all or part of the land-disturbing activities permitted on the site be stopped until the specified corrective measures have been taken.

If land-disturbing activities have commenced without an approved plan, the Building Official may issue an order 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 plan, such a stop work order may be issued without regard to whether the alleged violator has been issued a notice to comply as specified in this ordinance. Otherwise, such an order may be issued only after the alleged violator has failed to comply with such a notice to comply.

The stop work order shall be served in the same manner as a notice to comply, and shall remain in effect for a period of seven days from the date of service pending application by the County or permit holder for appropriate relief to the Circuit Court of Fluvanna. The County shall serve such order for disturbance without an approved plan upon the owner by mailing with confirmation of delivery to the address specified in the land records. The order shall be posted on the site where the disturbance is occurring, and shall remain in effect until

permits and plan approvals are secured, except in such situations where an agricultural exemption applies.

If the alleged violator has not obtained an approved plan within seven days from the date of service of the stop work order, the Building Official may issue an order to the owner requiring that all construction and other work on the site, other than corrective measures, be stopped until an approved plan has been obtained. Such an order shall be served upon the owner by mailing with confirmation of delivery to the address specified in the plan or the land records of the County.

The owner may appeal the issuance of an order to the Circuit Court of Fluvanna County.

Any person violating or failing, neglecting or refusing to obey an order issued by the Building Official may be compelled in a proceeding instituted in the Circuit Court of Fluvanna County 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, the order shall immediately be lifted.

Nothing in this section shall prevent the Building Official from taking any other action authorized by this ordinance or other applicable laws.

Sec. 6-1-10. - Penalties, injunctions and other legal actions

- (A) Any person who has violated or failed, neglected, or refused to obey any order, notice, or requirement of the VESCP authority, any condition of a land-disturbance approval, or any provision of this ordinance shall, upon a finding of the District Court of Fluvanna County, be assessed a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000, except that the civil penalty for commencement of land-disturbing activities without an approved plan shall be \$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 which 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 which exceed a total of \$10,000.
- (B) The Building Official, or the owner of property which has sustained damage, or which is in imminent danger of being damaged, may apply to the Circuit Court of Fluvanna County to enjoin a violation or a threatened violation of §§ 62.1-44.15:55 or 62.1-44.15:58 of the Code of Virginia, as amended, 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 local program, and the program authority, that a violation of the local program has caused, or creates a probability of causing, damage to his or her property, and (ii) neither the person who has violated the local program nor the program authority has taken corrective action within fifteen days to eliminate the conditions which have caused, or create the probability of causing, damage to his or her property.

(C) In addition to any criminal or civil penalties provided under this ordinance, any person who violates any provision of the Erosion and Sediment Control Law may be liable to Fluvanna County in a civil action for damages.

(D) Without limiting the remedies which 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 County.

Any civil penalties assessed by a court shall be paid into the treasury of the County, except that where the violator is the County itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

(E) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or condition of a permit or any provision of this ordinance or order of the County, the County may provide for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection D of this section. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection A or D.

(F) The County Attorney shall, upon request of the County, take legal action to enforce the provisions of this ordinance.

Sec. 6-1-11. - Appeals and judicial review

(A) Final decisions of the County under this ordinance shall be subject to review by the Fluvanna Circuit Court, provided 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.

State Law reference - Code of Va., § 62.1-44.15:54, as amended.

(2) That the Ordinance shall be effective upon adoption.

**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB F

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Public hearing to enact Section 20-1-8 of the County Code to exempt from taxation certain classes of tangible personal property				
MOTION(s):	I move that the Board of Supervisors approve the amendments to the County Code and enact Section 20-1-8 of the County Code to exempt from taxation certain classes of tangible personal property identified in VA Code Sections 58.1-3504 and 58.1-3505.				
BOS WORK PLAN?	Yes	No	If yes, list item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
	X				
STAFF CONTACT(S):	Dan Whitten, County Attorney				
PRESENTER(S):	Dan Whitten, County Attorney				
RECOMMENDATION:	Approve and enact Section 20-1-8 of the County Code				
TIMING:	Ordinance would be effective January 1, 2025.				
DISCUSSION:	<p>Section 58.1-3504 of the Virginia Code gives optional authority to localities to exempt from taxation certain classes of household goods and personal effects.</p> <p>Section 58.1-3505 of the Virginia Code gives optional authority to localities to exempt from taxation certain classes of farm animals, grains and feeds used for the nurture of farm animals and agricultural products, farm machinery, farm implements and farm equipment.</p> <p>The proposed amendment to the County Code will enact Section 20-1-8 which will exempt from taxation all classes of property listed in Virginia Code Sections 58.1-3504 and certain classes of property from 58.1-3505.</p> <p>The Commissioner of Revenue has actually been exempting these classes of property for many years but an ordinance has never adopted by the Board of Supervisors.</p>				
FISCAL IMPACT:	N/A				
POLICY IMPACT:	Amendment to the County Code				
LEGISLATIVE HISTORY:	County Code Section 20-1-8 is a new code section.				
ENCLOSURES:	<ul style="list-style-type: none"> • Proposed Section 20-1-8 of the County Code • Virginia Code Section 58.1-3504 • Virginia Code Section 58.1-3505 				

REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
	X				X

ORDINANCE TO AMEND “THE CODE OF THE COUNTY OF FLUVANNA, VIRGINIA”, BY ENACTING § 20-1-8 TO EXEMPT FROM TAXATION AS PERSONAL PROPERTY THE FOLLOWING ITEMS: HOUSEHOLD GOODS AND PERSONAL EFFECTS AND FARM ANIMALS, GRAINS, AND OTHER FEEDS, AGRICULTURAL PRODUCTS, FARM MACHINERY AND FARM IMPLEMENTS

BE IT ORDAINED by the Board of Supervisors of Fluvanna County:

(1) That the Code of the County of Fluvanna, Virginia is amended by enacting § 20-1-8, as follows:

CHAPTER 20 TAXATION

ARTICLE 1. – IN GENERAL

Sec. 20-1-8. - Exemptions from taxation as tangible personal property.

- (A) Household goods and personal effects of county residents, as defined by Code of Virginia, § 58.1-3504, as amended, are hereby exempt from taxation as tangible personal property.
- (B) The following farm animals, agricultural products, farm machinery, farm implements and equipment of county residents, as defined by Code of Virginia, § 58.1-3505, as amended, are exempt from taxation as tangible personal property.
1. Horses, mules and other kindred animals.
 2. Cattle.
 3. Sheep and goats.
 4. Hogs.
 5. Poultry.
 6. Grains and other feeds used for the nurture of farm animals.
 7. Grain; tobacco; wine produced by farm wineries as defined in Virginia Code § 4.1-100; and other agricultural products in the hands of a producer.
 8. Farm machinery, other than the farm machinery described in subdivision (10), and farm implements, which shall include (1) equipment and machinery used by farm wineries as defined in Virginia Code § 4.1-100, as amended, in the production of wine; (2) equipment and machinery used by a nursery, as defined in Virginia Code § 3.2-3800, as amended, for the production of horticultural products; and (3) any farm tractor, as defined in Virginia Code § 46.2-100, as amended, regardless of whether such farm tractor is used exclusively for agricultural purposes.
 9. Equipment used by farmers or farm cooperatives qualifying under Internal Revenue Code § 521 to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.
 10. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

(2) That the Ordinance shall be effective on January 1, 2025.

Code of Virginia

Title 58.1. Taxation

Subtitle III. Local Taxes

Chapter 35. Tangible Personal Property, Machinery and Tools and Merchants' Capital

Article 1. Tangible Personal Property Tax

§ 58.1-3504. Classification of certain household goods and personal effects for taxation; governing body may exempt

A. Notwithstanding any provision of § 58.1-3503, household goods and personal effects are hereby defined as separate items of taxation and classified as follows:

1. Bicycles.
2. Household and kitchen furniture, including gold and silver plates, plated ware, watches and clocks, sewing machines, refrigerators, automatic refrigerating machinery of any type, vacuum cleaners and all other household machinery, books, firearms and weapons of all kinds.
3. Pianos, organs, and all other musical instruments; phonographs, record players, and records to be used therewith; and radio and television instruments and equipment.
4. Oil paintings, pictures, statuary, curios, articles of virtu and works of art.
5. Diamonds, cameos or other precious stones and all precious metals used as ornaments or jewelry.
6. Sporting and photographic equipment.
7. Clothing and objects of apparel.
8. Antique motor vehicles as defined in § 46.2-100 which may not be used for general transportation purposes.
9. All-terrain vehicles, mopeds, and off-road motorcycles as defined in § 46.2-100.
10. Electronic communications and processing devices and equipment, including but not limited to cell phones and tablet and personal computers, including peripheral equipment such as printers.
11. All other tangible personal property used by an individual or a family or household incident to maintaining an abode.

The classification above set forth shall apply only to such property owned and used by an individual or by a family or household primarily incident to maintaining an abode.

The governing body of any county, city or town may, by ordinance duly adopted, exempt from taxation all of the above classes of household goods and personal effects.

B. Notwithstanding any provision set forth above, household appliances in residential rental property used by an individual or by a family or household incident to maintaining an abode shall be deemed to be fixtures and shall be assessed as part of the real property in which they are located.

For purposes of this subsection, "household appliances" shall mean all major appliances customarily used in a residential home and which are the property of the owner of the real estate, including, without limitation, refrigerators, stoves, ranges, microwave ovens, dishwashers, trash compactors, clothes dryers, garbage disposals and air conditioning units.

Code 1950, § 58-829.1; 1958, c. 72; 1984, cc. 675, 768; 1997, c. 250; 2006, c. 896; 2013, c. 783; 2014, c. 279.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Code of Virginia

Title 58.1. Taxation

Subtitle III. Local Taxes

Chapter 35. Tangible Personal Property, Machinery and Tools and Merchants' Capital

Article 1. Tangible Personal Property Tax

§ 58.1-3505. Classification of farm animals, certain grains, agricultural products, farm machinery, farm implements and equipment; governing body may exempt

A. Farm animals, grains and other feeds used for the nurture of farm animals, agricultural products as defined in § 3.2-6400, farm machinery and farm implements are hereby defined as separate items of taxation and classified as follows:

1. Horses, mules and other kindred animals.
2. Cattle.
3. Sheep and goats.
4. Hogs.
5. Poultry.
6. Grains and other feeds used for the nurture of farm animals.
7. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100 and other agricultural products in the hands of a producer.
8. a. Farm machinery and farm implements other than the farm machinery and farm implements described in subdivision 10, which shall include (i) equipment and machinery used by farm wineries as defined in § 4.1-100 in the production of wine; (ii) equipment and machinery used by a nursery for the production of horticultural products; (iii) any farm tractor as defined in § 46.2-100, regardless of whether such farm tractor is used exclusively for agricultural purposes; (iv) motor vehicles that are used primarily for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670; and (v) privately owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7. For purposes of this section, "nursery" means any premises where nursery stock is propagated, grown, fumigated, treated, packed, stored, or otherwise prepared for sale or distribution, and "nursery stock" means all trees, shrubs, woody vines (including ornamentals), bush fruits, grapevines, fruit trees, and nut trees offered for sale and distribution; all buds, grafts, scions, and cuttings from such plants; and any container, soil, and other packing material with such plants or plant products. "Nursery stock" also means herbaceous plants and any florist or greenhouse plants.
- b. Farm machinery, farm equipment, and farm implements, other than farm machinery and farm implements described in subdivision 10, used by an indoor, closed, controlled-environment commercial agricultural facility, including property described in subdivisions 8 a and b of § 58.1-609.2, for the production of agricultural products. For purposes of this subdivision, "indoor, closed, controlled-environment commercial agricultural facility" shall include indoor vertical

farming or a greenhouse.

9. Equipment used by farmers or farm cooperatives qualifying under § 521 of the Internal Revenue Code to manufacture industrial ethanol, provided that the materials from which the ethanol is derived consist primarily of farm products.

10. Farm machinery designed solely for the planting, production or harvesting of a single product or commodity.

11. Unless exempted by subdivision 8, privately owned trailers as defined in § 46.2-100 that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7.

12. Unless exempted by subdivision 8, motor vehicles that are used primarily for agricultural purposes, for which the owner is not required to obtain a registration certificate, license plate, and decal or pay a registration fee pursuant to § 46.2-665, 46.2-666, or 46.2-670, or pickup or panel trucks or sport utility vehicles for which the owner is required to obtain a permanent farm use placard pursuant to § 46.2-684.2.

13. Trucks or tractor trucks as defined in § 46.2-100, that are primarily used by farmers in their farming operations for the transportation of farm animals or other farm products as enumerated in subdivisions 1 through 7 or for the transport of farm-related machinery.

14. Farm machinery and farm implements, other than the farm machinery and farm implements described in subdivisions 8 and 10, which shall include equipment and machinery used for forest harvesting and silvicultural activities.

15. Farm machinery and farm implements, other than the farm machinery and farm implements described in subdivisions 8, 10, and 14, which shall include season-extending vegetable hoop houses used for in-field production of produce.

B. The governing body of any county, city or town may, by ordinance duly adopted, exempt in whole or in part from taxation, or provide a different rate of tax upon, all or any of the above classes of farm animals, grains and feeds used for the nurture of farm animals, farm vehicles, and farm machinery, implements or equipment set forth in subsection A.

C. Grain; tobacco; wine produced by farm wineries as defined in § 4.1-100; and other agricultural products, as defined in § 3.2-6400, shall be exempt from taxation under this chapter while in the hands of a producer.

1976, c. 560; 1979, c. 576; 1980, c. 314; 1984, cc. 150, 675; 1993, c. 866; 1998, c. 332; 2004, c. 556; 2012, c. 272; 2018, cc. 30, 618; 2019, c. 259; 2020, c. 251; 2023, cc. 85, 86, 344; 2024, cc. 87, 88.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

FLUVANNA COUNTY BOARD OF SUPERVISORS AGENDA ITEM STAFF REPORT

TAB G

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Public hearing for a Lease Agreement with Fluvanna Christian Service Society, Inc. to Lease Property at Carysbrook Complex				
MOTION(s):	I move that the Board of Supervisors approve the lease agreement with the Fluvanna Christian Service Society, Inc. and authorize the County Administrator to sign the lease agreement subject to approval as to form by the County Attorney.				
BOS WORK PLAN?	Yes	No	If yes, list item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
	X				
STAFF CONTACT(S):	Dan Whitten, County Attorney				
PRESENTER(S):	Dan Whitten, County Attorney				
RECOMMENDATION:	Approve FCCS lease agreement				
TIMING:	Routine				
DISCUSSION:	<ul style="list-style-type: none"> Since 2018, FCCS has leased property at Carysbrook Complex from the County for three storage buildings owned by FCCS. The buildings have been the primary location of the food pantry. The food pantry has moved to the MACAA space, but FCSS wants to use one building for a freezer to be used by MACAA for overflow freezer items. FCSS would like to use the buildings to store donations for the Happy Face Christmas toy and clothes distribution program. Lease term will be 5 years with automatic with an automatic 5 year renewal term. 				
FISCAL IMPACT:	N/A				
POLICY IMPACT:	N/A				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	<ul style="list-style-type: none"> Lease between County and FCCS 				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
	X				

GROUND SPACE LEASE

THIS DEED OF GROUND SPACE LEASE (“Lease”) is made and entered into as of the _____ day of _____, 2024, in accordance with Virginia Code Section 15.2-1800, by and between the COUNTY OF FLUVANNA, a political subdivision of the Commonwealth of Virginia, (“Lessor”), whose address is P.O. Box 540, Palmyra, Virginia 22963, and FLUVANNA CHRISTIAN SERVICE SOCIETY, INC., a not-for-profit corporation organized under the laws of the Commonwealth of Virginia, (“Lessee”), whose address is P.O. Box 411, Palmyra, Virginia 22963. The Lessor and Lessee are at times collectively referred to hereinafter as the “Parties” or individually as the “Party.”

Whereas, the terms and conditions of this Agreement supersede the terms and conditions of the agreement fully executed on November 26, 2018 between the Contractor and the County.

Now therefore, in consideration of the mutual promises, conditions, and other good and valuable consideration of the parties hereto, it is covenanted and agreed as follows:

1. Premises. Lessor is the owner of certain real property located in the County of Fluvanna, Virginia, hereinafter referred to as the “Premises,” more particularly described as a portion of the Carysbrook Complex, as substantially shown on **Exhibit A**, which is attached hereto and incorporated herein by reference, except as otherwise mutually agreed in writing by Lessor and Lessee. The Premises shall include a non-exclusive right of ingress and egress from James Madison Highway to the Premises over the existing driveway or such other travelway(s) as Lessor may designate from time to time, a non-exclusive easement over the Premises for utility lines and related appurtenances reasonably necessary in connection with Lessee’s occupation of the Premises and in such locations as agreed upon between the Lessor and Lessee, and non-exclusive and reasonable use of the parking lot immediately adjacent to the Premises and shown on **Exhibit A**, provided, however, that a handicapped parking space will be provided immediately adjacent to the Premises in a location agreeable to both Lessor and Lessee for Lessee’s clients during Lessee’s hours of operation. Lessor shall have the right to reconfigure or relocate the foregoing utilities and parking lot from time to time, at Lessor’s expense and in Lessor’s sole discretion.

2. Demise of the Premises. Lessor, in consideration of the terms, covenants, conditions and agreements set forth in this Lease, does hereby let and demise unto Lessee and Lessee does hereby take from the Lessor the Premises.

3. Title to Premises. The Lessor represents and warrants to the Lessee that it has the power and authority to execute this Lease and to carry out and perform all covenants to be performed by the Lessor under this Lease.

4. Condition of Premises. The Premises are vacant and undeveloped and are leased to the Lessee “as is” with all faults, without warranty or representation by Lessor as to condition or usefulness of the Premises for any purpose. The Lessee covenants and represents that it has inspected and is fully familiar with the condition of the Premises and accepts it “as is.”

5. Use of Premises. Lessee shall use the Premises exclusively for the operation of a non-profit food pantry and for storing donations for the Happy Face program, together with such other programs as may be developed to assist Lessee with its mission of operating a non-profit food pantry and the Happy Face program. Lessee shall not commit or permit any waste or nuisance in or about the Premises and shall not do anything that might create an unreasonable fire hazard on the Premises. Lessee shall not violate any applicable law regarding the use of the Premises. No other use may be made of the Premises without the prior written consent of Lessor, which may be granted or withheld in Lessor's sole discretion. Lessee shall be solely responsible for obtaining any and all permits required for the construction and/or relocation of its improvements and conduct of its business.

6. Term; Renewal. This Lease begins at 12:01 A.M. on December 1, 2024 (the "Commencement Date"), and runs for a term of five (5) years until 12:00 A.M. on November 30, 2029 unless the Lease is terminated in accordance with the terms of this Lease. Thereafter, the Lease shall automatically be renewed for an additional five (5) year term unless either Party notifies the other that the Lease is not to be renewed, which notice must be given at least one hundred and twenty (120) days before the end of the term. At the commencement of any such renewal term or terms, Lessor and Lessee shall, by mutual agreement and on the basis of good faith and fair dealing, agree upon the rental fee for the Premises based upon the fair market rate of local rents then in effect for comparable premises and uses, if such data are available. The foregoing shall not be construed in any way to require either the Lessor or the Lessee to enter into such a renewal term or terms; and in no event shall this Lease be renewed if the Premises shall be required for any of the purposes provided in Virginia Code Section 15.2-1639.

7. Rent; Late Payment and Returned Check Charges. Lessee agrees to pay as rent \$180.00 per year. This rent shall be payable in equal monthly installments of \$15.00, or on such other terms of payment as may be acceptable to the Lessor. Such rent installments shall be paid by Lessee on the first day of each month to Lessor at the address provided above or at such other address as Lessor may designate from time to time. Rent for any period other than a full month shall be prorated based upon the number of days in the particular month. If any rent is not paid within five (5) days after it is due, Lessor may impose a charge of \$25.00 for late payment as additional rent. In addition to any applicable late fee, Lessee agrees to pay as additional rent a charge in the amount of \$50.00 for each check returned to Lessor for any reason other than lack of Lessor's endorsements, and for each electronic funds transfer rejected because of insufficient funds or a stop-payment order placed in bad faith. Lessee further agrees to pay any costs and damages incurred by Lessor as a result thereof, including, but not limited to, bank charges and returned check fees.

8. Construction/Relocation of Improvements. Lessee shall have the right to construct, maintain, renovate, improve, remove and replace on the Premises two rectangular buildings, the first having exterior dimensions of approximately fourteen feet by thirty-six feet (14' x 36'), and the second having exterior dimensions of approximately fourteen feet by twenty feet (14' x 20'), together with awnings, covered walkways, gravel walkways and gravel driveway, and to relocate a rectangular temporary building having exterior dimensions of approximately twelve feet by twenty-six feet (12' x 26'), all of which shall be situated generally as illustrated in **Exhibit A**, or as otherwise mutually agreed by the Parties. Nothing in this Lease

shall be construed as County of Fluvanna approval of the construction/relocation of the foregoing improvements, or to require the issuance of any permit or governmental approval by the County of Fluvanna. Lessee shall cause all work to be performed free of liens, in a good and workmanlike manner, and in compliance with all applicable laws, ordinances, and permitting processes. Lessee shall not cause or permit any mechanics' or other liens or encumbrances to attach or remain against the Premises, any improvements thereon, or any of Lessor's property. If any such lien or notice of lien rights shall be filed, the Lessee shall immediately take such steps as may be necessary to have the affected property released from such lien, and shall permit no further work to be performed until such release has been accomplished.

9. Ownership of Improvements. All improvements and other appurtenances shall remain the property of the Lessee upon the expiration or earlier termination of this Lease, unless the parties otherwise agree in writing. Within one hundred twenty (120) days following the expiration or earlier termination of this Lease, at Lessee's sole expense, Lessee shall remove any or all improvements and restore the Premises or applicable portion thereof to substantially the same condition as existed prior to this Lease. The provisions of this Section 9 shall survive the expiration or earlier termination of this Lease.

10. Options to Terminate. Lessor and Lessee shall each have the right to terminate this Lease at any time, without cause, by giving not less than one hundred twenty (120) days written notice to the other Party.

In the event Lessor exercises the option to terminate set forth in this Section 10, Lessor shall pay Lessee an amount for the improvements to the Premises consistent with a straight line depreciation from the Commencement Date based upon the original construction/relocation cost of the improvements. Lessor shall have no other obligation to pay Lessee with respect to Lessee's improvements to the Premises.

11. Utilities; Site Maintenance

(A) Except as otherwise provided in Section 11(B) below, Lessee shall be solely responsible for and shall pay for all charges of gas, water, sewer, electricity, light, heat, power, and telephone and any other communication or information service used, rendered or supplied upon or in connection with the Premises, including, but not limited to, the permits, connections charges, and installation of electric, telephone and other utility service for its operations, and shall indemnify the Lessor against any and all liability or damages on such account. Lessee shall make reasonable use of any utilities used by it.

(B) No water or sewer shall be provided to the Premises unless the parties otherwise agree in writing.

(C) Lessee agrees to maintain the improvements constructed/relocated on the Premises in good repair.

(D) In addition to the repairs referenced in subparagraph (C) above, Lessee agrees to keep the interior of all buildings and exterior of the Premises in reasonably sanitary, neat

and orderly condition, which shall include, without limitation, timely removal of accumulations of snow and ice, cleanup of trash and other debris and orderly storage of materials on the Premises itself. No materials, equipment or item of any kind shall be leaned against or otherwise stored in contact with the exterior walls of the buildings or be stored outside of the buildings, with the exception of generators, propane tanks, electrical and HVAC systems. Lessor shall be responsible for maintenance of the parking areas and exterior lighting in the parking areas, including but not limited to the removal of snow and ice. Lessor shall provide a dumpster in the common area near the Premises for the disposal of trash and debris.

12. Security; Access; Inspection. Lessee shall maintain the Premises in a reasonably secure condition and shall be solely responsible for the security of the Premises. Lessor shall have access to the Premises at all reasonable times during business hours for the purpose of inspecting the same for compliance with this Lease. Lessor and any responsible utility provider shall further have access to the exterior of the buildings on the Premises for the purpose of installing, repairing, replacing and maintaining utility and/or service lines on or adjacent to the Premises at any time. Lessee shall provide Lessor with a list of individuals to contact in the event of an emergency on the Premises.

13. Taxes. Lessee shall pay any personal property, real estate, or other taxes, assessments, or charges levied against Lessee's leasehold, use of the Premises and/or the installation, maintenance, and operation of the Lessee's improvements.

14. Compliance with Laws. Lessee shall, at Lessee's sole cost and expense, comply with all federal, state, county or local laws, rules, regulations and ordinances now or hereafter enacted by any governmental authority or administrative agencies having jurisdiction over the Premises and Lessee's operations thereupon, including but not limited to obtaining any and all permits for construction of the improvements and operation of the Lessee's use.

15. Indemnification. Lessee shall indemnify and hold harmless Lessor against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence or willful misconduct of Lessee, its employees, contractors, or agents, except to the extent such claims or damages may be due to or caused by the negligence or willful misconduct of Lessor, or its employees, contractors, or agents.

16. Insurance. Lessee agrees that at its own cost and expense, it shall continuously maintain general liability insurance insuring against liability for bodily injury, death or damage to personal property with combined single limits of \$1,000,000 per occurrence. Lessee shall include Lessor as an additional insured and provide Lessor with a certificate evidencing such insurance prior to the commencement of this Lease, upon each renewal or change in the insurance, and otherwise upon request by Lessor. Nothing contained in this Lease shall be deemed to be a waiver of sovereign immunity by the Lessor. Lessee acknowledges that Lessor is not an insurer of Lessee's property and Lessee shall maintain such all-risk property insurance covering Lessee's fixtures, improvements, and personal property as Lessee deems appropriate for the protection of Lessee.

17. Default. If Lessor or Lessee fails to comply with any provisions of this Lease which

the other Party claims to be a default hereof, the Party making such claim shall serve written notice of such default upon the defaulting Party and the defaulting Party shall be given thirty (30) days to cure such default. Said defaulting Party shall provide evidence that it is making a good faith effort to cure said default to the other Party upon request. Waiver of or failure to take any action with respect to any default shall not constitute a waiver of any subsequent or other default or the same or a different provision of this Lease.

18. Exclusive Venue; Attorney Fees and Expenses. In the event of any litigation arising under this Lease, the Parties agree that the exclusive venue therefor shall be in the courts located in the County of Fluvanna, and that the non-prevailing Party shall, upon demand, reimburse the substantially prevailing Party for all costs and expenses arising therefrom from time to time, including reasonable attorneys' fees.

19. Assignment; Sublease. Lessee shall not transfer or assign its rights under this Lease or let or sublet, in whole or in part, the Premises or any portion thereof, without the prior written consent of the Lessor, which consent shall not be unreasonably withheld. No assignment or sublease shall relieve Lessee of any responsibilities under this Lease, unless Lessor specifically agrees to such release in writing.

20. Signs. With the prior written consent of Lessor, Lessee may place on the Premises appropriate signs for advertising the business or location of the non-profit food pantry. All such signs must comply with all requirements of applicable laws, ordinances, and regulations. Lessee shall be solely responsible for obtaining any permits which may be required for any such sign. Upon the termination of this Lease, Lessee shall remove any sign erected or placed upon the Premises by Lessee, and Lessee shall repair any damage to the Premises caused by such attachment and/or removal.

21. Partial Payments. Acceptance by the Lessor of a partial payment of rent or other charges shall not be construed to waive any right of the Lessor or affect any notice or legal proceedings unless both parties agree otherwise in writing.

22. Quiet Enjoyment. Subject to the terms of this Lease, Lessor covenants that the Lessee shall have quiet possession and enjoyment of the Premises throughout the Lease Term, as long as the Lessee is not in default hereunder.

23. Real Estate Agents. Lessor and Lessee warrant that they have had no dealing with any real estate broker or agent in connection with the negotiation of this Lease and that they know of no other real estate broker or agent who is or might be entitled to a commission in connection with this Lease. The Parties agree to assume responsibility for their own broker's fees, if any.

24. Surrender of Premises. Upon the termination of this Lease, Lessee shall surrender the Premises promptly in accordance with the terms of this Lease. Any failure of Lessee to surrender the Premises shall be considered a holding over creating a tenancy at will with Lessee continuing to have all applicable responsibilities under this Lease.

25. Notices. Any notice, demand or communication required or permitted hereby shall

be deemed to be sufficient if in writing and delivered by certified mail, return receipt requested, or in person or by commercial delivery service to the Parties, respectively, at the addresses set forth above. Any Party may substitute another address by giving a notice in the manner required. Any Party may also provide an email address or a facsimile number for the provision of any notice. Any notice given by mail shall be deemed to be received on the fifth (5th) business day after deposit postage prepaid in the United States mail, certified, return receipt requested. Any notice given by hand shall be deemed to be received when delivered. Notice by commercial delivery service, facsimile transmission or email shall be deemed to be received on the date shown on the receipt or certificate of delivery or report of transmission applicable to the method of delivery, provided that any notice delivered by facsimile transmission or email shall also be sent by United States first-class mail, postage prepaid.

26. Survival. The provisions of this Lease relating to indemnification by the Lessee shall survive any termination or expiration of this Lease. Additionally, any provisions of this Lease which require or contemplate performance subsequent to the termination or expiration of this Lease shall also survive such termination or expiration.

27. General Provisions. This Lease contains the final and entire agreement between the parties hereto, superseding any and all prior agreements, representations or other matters preexisting between the parties regarding the subject matter hereof.

As appropriate to the context, the masculine shall include the feminine and neutral genders and vice versa, and the singular shall include the plural and vice versa. The headings contained in this Lease are inserted for convenience only and are not intended to be part of the Lease. They shall not affect or be utilized in the construction or interpretation of the Lease.

Any amendment or modification to this Lease is to be contained in a writing signed by the parties to this Lease. This Lease shall be binding upon and inure to the benefit of the parties to this Lease and their respective heirs, successors and assignees. This Lease shall be construed in accordance with the laws of the Commonwealth of Virginia and of the County of Fluvanna.

[Signature page to follow.]

WITNESS the following duly authorized signatures:

LESSOR:
COUNTY OF FLUVANNA, a political subdivision of the Commonwealth of Virginia

By: _____(SEAL)
Eric M. Dahl, County Administrator

STATE OF VIRGINIA,
COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by Eric M. Dahl, County Administrator of Fluvanna County on behalf of the Board of Supervisors of Fluvanna County, Virginia.

My commission expires: _____

Notary Public

APPROVED AS TO FORM: FLUVANNA COUNTY ATTORNEY

By: _____
Dan Whitten, County Attorney

LESSEE:
FLUVANNA CHRISTIAN SERVICE SOCIETY, INC.,
A not-for-profit corporation organized under the laws of the Commonwealth of Virginia

By: _____(SEAL)

Its: _____

STATE OF VIRGINIA,
COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this _____ day of _____, 2024 by _____, _____ of Fluvanna Christian Service Society, Inc.

My commission expires: _____

Notary Public

Building Layout for FCSS Buildings at Carysbrook Complex



Social Services Building

= +/- 128 SF

Carysbrook Gymnasium

Loading Ramp

312 SF

280 SF

504 SF

12' x 26' Building

14' x 20' Building

14' x 36' Building

PREMISES

Total Building Area =
+/- 1,096 SF Total Deck/Ramp Area

07/19/2017

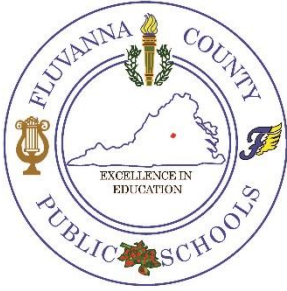
SCALE: 1" = 50'

FLUVANNA COUNTY BOARD OF SUPERVISORS AGENDA ITEM STAFF REPORT

TAB H

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	FY25 FCPS Grants Supplemental Appropriation				
MOTION(s):	I move the Board of Supervisors approve a supplemental appropriation of \$3,211,343.17 to the Fluvanna County Public Schools FY25 budget for funds received from State and Federal revenue sources.				
BOS WORK PLAN?	Yes	No	If yes, list items(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
	X				
STAFF CONTACT(S):	Tori Melton, Director of Finance Brenda Gilliam, Executive Director for Instruction and Finance				
PRESENTER(S):	Brenda Gilliam, Executive Director for Instruction and Finance				
RECOMMENDATION:	I recommend approval of the motion as stated above.				
TIMING:	Routine				
DISCUSSION:	<p>The Adopted FY2025 budget totals \$107,505,194 in revenues and expenditures. The proposed amendment for the FCPS Budget calls for an increase of \$3,211,343.17 in revenues and expenditures. Fluvanna County Public Schools received \$3,211,343.17 in new FY25 grant funding from State and Federal revenue sources that were not included in the FY25 budget.</p>				
	<p>Per Code of Virginia 15.2-2507, any additional appropriation which increases the total budget by more than 1% of the total expenditure budget for that fiscal year requires a public hearing.</p>				
	<p>Notice of the public hearing must be advertised at least once in a newspaper of general circulation in the locality at least 7 days prior to the hearing. The advertisement was on November 7, 2024.</p>				
	<p>The supplemental appropriation breakdown is provided on the FCPS request enclosed. The below tables show the change in the FY25 FCPS budget:</p>				
	Revenue Category	FY25 Adopted	FY25 Revised	FY25 Request	FY25 Revised (NEW Total)
	Local - County	22,269,388	-	-	22,269,388
	Other Local	454,200	-	-	454,200

	State	30,750,000	2,905,399	-	33,655,399
	Federal	1,676,800	305,944.17	-	1,982,744.17
	TOTAL	55,150,388	3,211,343.17	-	58,361,731.17
FISCAL IMPACT:	<p>Approval of this supplemental appropriation will authorize staff to increase the Revenue and Expenditures by \$3,211,343.17 as outlined in the above table.</p> <p>There is no local County match required for these funds. In addition, this request is not for County Local funding carryover. Any requests for County Local funding carryovers will not occur until December 2024.</p>				
POLICY IMPACT:	N/A				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	FCPS Supplemental Appropriation Request				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
		X			



FLUVANNA COUNTY PUBLIC SCHOOLS

14455 JAMES MADISON HIGHWAY
PALMYRA, VIRGINIA 22963

Phone: (434) 589-8208 Fax: (434) 589-2248

TO: Eric Dahl, County Administrator, Fluvanna County

FROM: Brenda Grasser, Executive Director for Instruction and Finance

Cc: Dr. Peter Gretz, Superintendent Fluvanna County Public Schools
Tori Melton, Fluvanna County Finance Director

DATE: September 19, 2024

RE: Revised Supplemental Appropriations and Non-Local Carryover Requests

It is requested the funds be appropriated to the Schools as an increase in funds as outlined below:

Categorical		Revenue Source	
Instruction	\$1,284,253.23	Federal	\$305,944.17
Attendance/Administration/Health	\$0.00	Local	\$0.00
Technology	\$0.00	Other Local	\$0.00
Transportation	\$0.00	State	\$2,905,399.00
Operations	\$1,927,089.94	Total	\$3,211,343.17
Total	\$3,211,343.17		

The Fluvanna County School Board is committed to nondiscrimination with regard to sex, sexual orientation, gender, gender identity, race, color, national origin, disability, religion, ancestry, age, marital status, pregnancy, childbirth or related medical conditions, status as a veteran, genetic information or any other characteristic protected by law. This commitment prevails in all of its policies and practices concerning staff, students, educational programs and services, and individuals and entities with whom the Board does business. Mr. Don Stribling, Executive Director for Human Resources, Operations, and Student Services, is designated as the responsible person (Compliance Officer) regarding assurances of nondiscrimination. Any complaint alleging discrimination based on a disability shall be directed to Ms. Jennifer Valentine, Director of Special Education (the Section 504 Coordinator). Both may be reached at the following address: 14455 James Madison Highway, Palmyra, VA 22963; telephone (434) 589-8208. The Fluvanna County School Board is an Equal Opportunity Employer.

Funding Source	Year	Type	Category	Amount	Expiration	SUPPLEMENTAL/CARRYOVER
Title I	2025	Federal	Instruction	\$67,877.05	09/2025	SUP
Title VIB	2025	Federal	Instruction	\$44,499.00	10/2026	SUP
Title VIB- Carryover	2024	Federal	Instruction	\$46,589.99	10/2025	CO
Title VIB- Carryover	2023	Federal	Instruction	\$44,617.09	10/2024	CO
Carl Perkins	2025	Federal	Instruction	\$6,821.31	10/2025	SUP
Pre-School Handicapped	2025	Federal	Instruction	\$786.00	10/2026	SUP
Pre-School Handicapped Carryover	2024	Federal	Instruction	\$1,036.98	10/2024	CO
Title III- Limited English Proficient	2025	Federal	Instruction	\$2,158.03	10/2025	SUP
Title III- Carryover	2024	Federal	Instruction	\$5,001.06	10/2024	CO
Title II Part A- Improvement of Instruction	2025	Federal	Instruction	\$3,442.20	10/2025	SUP
Title IV	2025	Federal	Instruction	\$5,386.43	10/2025	SUP
Title IV	2024	Federal	Instruction	\$10,339.48	10/2025	CO
ESSER III Unfinished Learning	2022	Federal	Instruction	\$33,675.55	09/2024	CO
ESSER III	2022	Federal	Instruction	(\$28,580.52)	09/2024	CO
Co-Teaching Grant	2025	Federal	Instruction	\$7,500.00	06/30/2025	SUP
State Construction Funds	2023	State	Operations	\$1,755,847.00		CO
All In Funding	2024	State	Instruction	\$367,186.40		CO
VPSA Technology	2024	State	Instruction	\$488,000.00		CO
Blue Ridge Virtual Governor's School	2024	State	Instruction	\$140,814.56	06/30/2025	CO
Project RETURN	2024	State	Instruction	\$12,596.14	06/30/2025	CO
Security Grant Carryover	2023	State	Operations	\$39,393.63	10/2024	SUP
Security Grant	2024	State	Operations	\$77,054.79	06/30/2025	CO
Security Grant- Federal	2025	Federal	Operations	\$54,794.52	12/2025	SUP
Career and Technical Education- State Equipment	2025	State	Instruction	\$8,515.99	06/30/2025	SUP
Additional CTE Equipment	2025	State	Instruction	\$6,606.24	06/30/2026	SUP
Industry Credentialing Exams	2025	State	Instruction	\$5,838.36	06/30/2025	SUP
Industry Credentialing Exams- STEM H	2025	State	Instruction	\$2,192.46	06/30/2025	SUP
Workplace Readiness Skills for the Commonwealth	2025	State	Instruction	\$1,353.43	06/30/2025	SUP
TOTAL				\$3,211,343.17		

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**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB I

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Adoption of the Fluvanna County Board of Supervisors November 6, 2024 Meeting Minutes.				
MOTION(s):	I move the meeting minutes of the Fluvanna County Board of Supervisors Regular Meeting on Wednesday November 6, 2024, be adopted.				
BOS WORKPLAN?	Yes	No	If yes, list item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
				XX	
STAFF CONTACT(S):	Caitlin Solis, Clerk to the Board				
PRESENTER(S):	Eric Dahl, County Administrator				
RECOMMENDATION:	Approve				
TIMING:	Routine				
DISCUSSION:	None.				
FISCAL IMPACT:	N/A				
POLICY IMPACT:	N/A				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	Draft Minutes November 6, 2024.				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
					X

**FLUVANNA COUNTY BOARD OF SUPERVISORS
REGULAR MEETING MINUTES
Circuit Courtroom, Fluvanna Courts Building
72 Main Street, Palmyra, VA 22063
November 6, 2024
Regular Meeting 5:00pm**

MEMBERS PRESENT:

Chris Fairchild, Cunningham District, Chair
John M. (Mike) Sheridan, Columbia District, Vice Chair
Mike Goad, Fork Union District
Timothy M. Hodge, Palmyra District
Tony O’Brien, Rivanna District (*entered the meeting at 5:04pm*)

ABSENT:

None.

ALSO PRESENT:

Eric M. Dahl, County Administrator
Kelly Harris, Assistant County Administrator
Dan Whitten, County Attorney
Caitlin Solis, Clerk for the Board of Supervisors

1 - CALL TO ORDER, PLEDGE OF ALLEGIANCE, & MOMENT OF SILENCE

At 5:03pm, Chair Fairchild called to order the Regular Meeting of November 6, 2024. After the recitation of the Pledge of Allegiance, a moment of silence was observed.

3 - ADOPTION OF AGENDA

- Mr. Dahl requested the addition of Elected Officials Breakfast Agenda Items to be added to New Business.

MOTION:	Accept the Agenda, for the November 6, 2024 Regular Meeting of the Board of Supervisors, as amended.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion		Second
VOTE:	Yes	Yes	Yes	Absent	Yes
RESULT:	5-0				

4 - COUNTY ADMINISTRATOR’S REPORT

Mr. Dahl reported on the following topics:

Announcements and Updates - New Employees

- Margaret Bamford, Planning Department, Administrative Specialist, Started November 4th
- Demetrice Payne, Public Works Department, Building Worker I, Started November 4th

Next BOS Meetings

Day	Date	Time	Purpose	Location
Wed	Nov 20	4:00 PM	IAC Dinner	Morris Room
Wed	Nov 20	6:00 PM	Regular Meeting	Circuit Court
Thu	Nov 21	8:30 AM	Elected Officials Breakfast	Library
Wed	Dec 4	5:00 PM	Regular Meeting	Circuit Court
Wed	Dec 4	7:00 PM	Budget Work Session	Morris Room

5 - PUBLIC COMMENTS #1

At 5:06pm, Chair Fairchild opened the first round of Public Comments.

- Mike Sheridan, 445 Covered Bridge Rd, thanked the groups involved in organizing the Lafayette Trail event on November 3, 2024.

With no one else wishing to speak, Chair Fairchild closed the first round of Public Comments at 5:08pm.

6 – BOARDS AND COMMISSIONS

None.

7 – PRESENTATIONS

Comprehensive Plan Timeline Update – Todd Fortune, Director of Planning

Mr. Fortune presented an update on the process for updating the Fluvanna County Comprehensive Plan. A full update of the Plan is needed to bring the entire Comprehensive Plan up to date and is expected to take 12 to 18 months to complete.

Board of Supervisors Minutes

At the October 8, 2024 meeting, the Planning Commission decided to keep the existing Comprehensive Plan format for the update. The Commission was agreeable to holding community meetings first, then disseminating citizen surveys.

- Hold five (5) community meetings, one for each district, after the first of the year.
- The format will consist of a mapping exercise and a P.A.R.K. (Preserve, Add, Remove, Keep Out) exercise. The next steps are for Staff to work on logistics of the community meetings (date/time/location, etc.); and begin work on parts of the Plan that are data intensive and don't rely on public input.

Undeveloped Parcels Map – Eric Dahl, County Administrator

As part of the adopted 2024 Board of Supervisors Work Plan, under Rural Preservation E2, the Board requested staff to “Provide a report on undeveloped parcels in the County in size categories such as greater than 1000 acres, 500-1000 acres, 200-500 acres, etc.”

A couple of items to note:

- When you view the map legend, you will note the County does not have any undeveloped parcels in the County greater than 1,000 acres.
 - We also decided to limit parcels to anything greater than 10 acres.
 - When you view the map legend, there is a number in parentheses, which indicates the number of parcels in that acreage category size.
 - You can also see in the map that some large undeveloped parcels are in Conservation Easements (hash marks), so they cannot be developed.
 - If we included undeveloped parcel sizes less than 10 acres, the number of parcels in that category was around 2,800 parcels.
- *After some discussion, the Board requested a new map that includes parcels that are more than 50 acres with a single dwelling.*

Employee Survey Update – Eric Dahl, County Administrator

Mr. Dahl presented an overview and options for the next employee survey including the benefits of an external survey; and available platforms from companies that specialize in performing surveys.

- Though no formal action is needed at this time, the Board agreed having an outside company conduct the employee survey will be beneficial. Staff will bring back a more formal agenda item at a future meeting.

8 - ACTION MATTERS

2025 TJPDC Legislative Program – David Blount, TJPDC Deputy Director/Director of Legislative Services

David Blount presented the Thomas Jefferson Planning District Commission Draft Legislative Priorities for 2025 including, public education funding, budgets and funding, and Land Use and Growth Management.

- Mr. Hodge asked to have the CSA protective funding rates updated to account for inflation, and have unutilized funds from localities shifted to localities that have used up their funding.
- Mr. O’Brien suggested that were the Department of Education to be disbanded, the 12 percent federal funding we usually receive would become a tax increase and would need to be considered.

MOTION:	Approve the 2025 Thomas Jefferson Planning District Legislative Program as amended.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:				Second	Motion
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

Job Description updates and re-classifications for the Treasurer’s Office – Treasurer, Debbie Rittenhouse, and Director of Human Resources, Donna Snow

The job descriptions for the Treasurer’s office have been updated to reflect the essential summary and the functions of each position. The changes are aimed at better aligning the roles with the County’s evolving needs and overall organizational goals.

The request for a new hire, upgrades and realignments for the following positions and to update position descriptions for:

- A current Deputy Treasurer II will move to the recently vacated deputy Treasurer III position;
- A current Deputy Treasurer III will move to Deputy Treasurer IV.
- A current Deputy Treasurer II will remain in the position.
- The current Chief Deputy Treasurer I will move to Chief Deputy Treasurer II;

These updates and requests are driven by the roles and responsibilities within the office.

These requests do not change the amount of staff for the office, rather it changes the skill level of the positions in the office (see the below chart)

Current	Deputy I	Deputy II	Deputy III	Deputy IV	Chief Deputy I	Chief Deputy II	Treasurer	Total
	0	2	2	0	1	0	1	6
Request	Deputy I	Deputy II	Deputy III	Deputy IV	Chief Deputy I	Chief Deputy II	Treasurer	Total
	0	2	1	1	0	1	1	6

MOTION:	Approve the position upgrade of a Full-time Deputy Treasurer II, to a Full-time Deputy Treasurer III in the Treasurer’s office and further approve the amended position description.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Second		Motion
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

MOTION:	Approve the position upgrade of a Full-time Deputy Treasurer III, to a Full-time Deputy Treasurer IV in the Treasurer’s office for FY25 at a cost of \$5,399.00 for salary and benefits, with funding to come from the FY25 BOS Contingency budget and further approve the amended position description.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Second		Motion
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

MOTION:	Approve the position upgrade of a Full-time Chief Deputy Treasurer I, to a Full-time Chief Deputy Treasurer II in the Treasurer’s office for FY25 at a cost of \$3,462.00 for salary and benefits, with funding to come from the FY25 BOS Contingency budget and further approve the amended position description.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:		Second	Motion		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

MOTION:	Approve the position realignment for the Full-time Deputy Treasurer II due to compression in the Treasurer’s office for FY25 at a cost of \$4,215.00, with funding to come from the FY25 BOS Contingency budget and further approve the amended position description.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O’Brien	Mr. Sheridan
ACTION:			Motion	Second	
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

9 - PUBLIC HEARING

None.

10 - CONSENT AGENDA

The following items were approved under the Consent Agenda for November 6, 2024:

- *Minutes of October 16, 2024* – Caitlin Solis, Clerk to the Board
- *Accounts Payable Report for September 2025* – Teresa McAllister, Management Analyst
- *2024 VATI MOU Between TJPDC, Firefly & Fluvanna* – Eric Dahl, County Administrator
- *Four-for-Life Supplemental Appropriation* – Theresa McAllister, Management Analyst
- *Approval of Open Space Agreement for CTD Corp.* – Andrew M. Sheridan, Jr., Commissioner of the Revenue
- *Approval of Open Space Agreement for Robert B. Hellinger* – Andrew M. Sheridan, Jr., Commissioner of the Revenue
- *Approval of Open Space Agreement for Adam Conrad Proffitt & Melissa Sue Proffitt* – Andrew M. Sheridan, Jr., Commissioner of the Revenue
- *Approval of Open Space Agreement for Robert E. Rigsby* – Andrew M. Sheridan, Jr., Commissioner of the Revenue
- *Road Name Assignment - Still Waters Lane* – Todd Fortune, Director of Planning and Zoning
- *CRMF - CEN - Chiller Fan Motors* – Don Stribling, FCPS Executive Director

MOTION:	Approve the consent agenda, for the November 6, 2024 Board of Supervisors meeting, and to ratify Accounts Payable and Payroll for September 2024 in the amount of \$3,516,631.95				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:		Motion			Second
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

11 - UNFINISHED BUSINESS

None.

12 - NEW BUSINESS

Elected Officials Breakfast Agenda Items – Eric Dahl, County Administrator

Mr. Dahl asked the Board if they had any topics they want to include on the Elected Officials Breakfast agenda.

The Board offered the following topics:

- Reduction of Early Voting from 45 days.
- SB 567 Siting of energy facilities; approval by the State Corporation Commission
- JLARC K-12 funding shortages
- Volunteer incentive voucher system

13 - PUBLIC COMMENTS #2

At 6:31pm, Chair Fairchild opened the second round of Public Comments. With no one wishing to speak, Chair Fairchild closed the second round of Public Comments at 6:31pm.

14 - CLOSED MEETING

MOTION:	At 6:31pm, move the Fluvanna County Board of Supervisors enter into a closed meeting, pursuant to the provisions of Section 2.2-3711 A.1, A.3, A.5, A.7, & A.8 of the Code of Virginia, 1950, as amended, for the purpose of discussing Personnel – Employees of the Department of Emergency Services, Real Estate – Disposition of County-owned property in the Fork Union District; Prospective Industry – prospective business update in the Columbia District; Litigation – Gate Plaza LLC v. Fluvanna County Board of Supervisors, Legal Matters – Contract user grants under the water and sewer ordinance in Zion Crossroads; and insurance proceeds related to Kents Store Fire building.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:		Second		Motion	
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

MOTION:	At 8:00 pm, move Closed Meeting be adjourned and the Fluvanna County Board of Supervisors convene again in open session and “BE IT RESOLVED, the Board of Supervisors does hereby certify to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under Section 2.2-3711-A of the Code of Virginia, 1950, as amended, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting.”				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:			Second	Motion	
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

15 - ADJOURN

MOTION:	Adjourn the regular meeting of Wednesday, November 6, 2024 at 8:00pm.				
MEMBER:	Mr. Fairchild	Mr. Goad	Mr. Hodge	Mr. O'Brien	Mr. Sheridan
ACTION:		Second	Motion		
VOTE:	Yes	Yes	Yes	Yes	Yes
RESULT:	5-0				

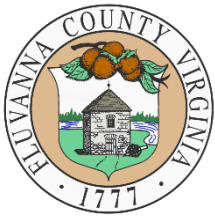
ATTEST:

FLUVANNA COUNTY BOARD OF SUPERVISORS

Caitlin Solis
Clerk to the Board

Christopher S. Fairchild
Chair

DRAFT



BOARD OF SUPERVISORS
County of Fluvanna
Palmyra, Virginia
RESOLUTION No. 27-2024A

A RESOLUTION TO ASSIGN A ROAD NAME: Still Waters Lane

WHEREAS, the E911 emergency system requires the assignment of names to all streets and roads in the County, the assignment of building numbers to all buildings having telephones and/or occupancies, and the erection of appropriate street signs at intersections; and,

WHEREAS, a fourth address has been assigned to the private road located on the north side of Thomas Jefferson Parkway one half mile east of its intersection with Ruritan lake Road which requires that a road name be assigned; and,

WHEREAS, the Board of Supervisors is empowered to name streets, roads and alleys within the County in accordance with Section 18-2 of the Code of the County of Fluvanna;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Fluvanna County pursuant to Section 18-2 of the Code of the County of Fluvanna that the private road located off of Thomas Jefferson Parkway one half mile east of its intersection with Ruritan Lake Road be named Still Waters Lane.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Fluvanna County Board of Supervisors on this 6th day of November 2024.

	AYE	NAY	ABSTAIN	ABSENT	MOTION	SECOND
Chris Fairchild, Cunningham District	X					
John M. Sheridan, Columbia District	X				X	
Mike Goad, Fork Union District	X					X
Timothy Hodge, Palmyra District	X					
Anthony P. O'Brien, Rivanna District	X					

Attest:

Christopher S. Fairchild, Chair
Fluvanna County Board of Supervisors

**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB J

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	FY25 Voluntary Contributions				
MOTION(s):	<p>I move the Board of Supervisors approve the following supplemental appropriations for FY25 Voluntary Contributions Program:</p> <p style="padding-left: 40px;">1. \$1000 – Transfer to the Parks & Rec FY25 Budget</p>				
BOS WORKPLAN?	Yes	No	If yes, list item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
				X	
STAFF CONTACT(S):	Theresa McAllister, Management Analyst				
PRESENTER(S):	Theresa McAllister, Management Analyst				
RECOMMENDATION:	I recommend approval of the motion as stated above.				
TIMING:	Effective: November 30, 2024				
DISCUSSION:	<p>The Board of Supervisors approved the “Fluvanna County Voluntary Contributions Program Policy” on August 7th, 2013, with the program to become effective September 1st, 2013.</p> <p>The Voluntary Contributions Program has 100% of your contribution going to the department/agency selected – The money donated goes to directly support the area selected after it is appropriated by the Board of Supervisors.</p> <p>Contributions can be designated for any one of the seven department/agencies noted below.</p> <ol style="list-style-type: none"> (1) County Government General Fund (2) Fluvanna County Public Schools (FCPS) (3) Parks and Recreation Department (4) Social Services Special Welfare Fund (5) Sheriff’s Department (6) County Library (7) Emergency Services 				
FISCAL IMPACT:	This supplemental appropriation would authorize staff to appropriate the revenue to the specific donation general ledger account and expenditures as indicated above.				

POLICY IMPACT:	N/A				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	None				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other
		X			

**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB K

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Approval of Open Space Agreement for Benco, LLC				
MOTION(s):	I move to approve the open space agreement for Benco, LLC for tax map parcels 49-A-2A, 49-A-2B and 49-A-2C; agreement shall remain in effect for a term of four (4) consecutive years.				
BOS WORK PLAN?	Yes	No	If yes, which item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
				X	
STAFF CONTACT(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
PRESENTER(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
RECOMMENDATION:	Approval				
TIMING:	Immediate				
DISCUSSION:	These properties qualify for an open space agreement with Fluvanna County in accordance with Code Section 58.1-3230 et. seq. of the Virginia State Code.				
FISCAL IMPACT:	None				
POLICY IMPACT:	In accordance with Section 58.1-3230 et. seq. of Virginia State Code.				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	<ul style="list-style-type: none"> - Benco, LLC's executed open space agreement - Map of tax map parcels 49-A-2A, 49-A-2B & 49-A-2C 				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other

Prepared by (Landowner's name and address):

Benco, LLC

5578 Richmond Rd., Suite 201A

Troy, VA 22974

Tax Map Parcels: 49-A-2A, 49-A-2B & 49-A-2C

After recordation, return to: County of Fluvanna
132 Main Street
Palmyra, VA 22963

This instrument is exempt from Clerk's fees pursuant to Virginia Code Sections 17.1-266 and 17.1-279(E)



OPEN SPACE USE AGREEMENT

THIS AGREEMENT, made this 25th day of September, 2024, by and between Benco, LLC, party(ies) of the first part, hereinafter called the Grantor (whether one or more), and the COUNTY OF FLUVANNA, a political subdivision of the Commonwealth of Virginia, party of the second part, hereinafter called the County:

WITNESSETH

WHEREAS, the Grantor owns certain real estate, described below, hereinafter called the Property; and

WHEREAS, the County is the local governing body having real estate tax jurisdiction over the Property; and

WHEREAS, the County has determined:

- A. That it is in the public interest that the Property should be provided or preserved for conservation of agricultural and forestal land and of wildlife; and
- B. That the Property meets the applicable criteria for real estate devoted to open-space use as prescribed in Article 4 (Section 58.1-3230 et. seq.) of Chapter 32 of Title 58.1 of the

- 2) related to and compatible with the open-space uses of the Property which this agreement is intended to protect or provide for.
- D. There shall be no dumping, storage, or accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.
- E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials which alters the topography of the Property, except as required in the construction of permissible building structures and features under this agreement.
- F. There shall be no construction or placement of fences, screens, hedges, walls or other similar barriers which materially obstruct the public's view of scenic areas of the Property.
- G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Grantor may: (1) engage in agricultural, horticultural or silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia Byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and (2) remove vegetation which constitutes a safety, a health or an ecological hazard, e.g., vegetation classified as a noxious weed pursuant to the Code of Virginia (1950), as amended.
- H. There shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.
- I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.
- J. There shall be no industrial or commercial activities, conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities; or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.
- K. There shall be no separation or split-off of lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of this agreement only as the same entire parcel that is the subject of this agreement, provided, however, that the Grantor may grant to a public body or bodies open-space, conservation or historic preservation easements which apply to all or part of the Property.
3. This agreement shall be effective upon acceptance by the County, provided, however, that the real estate tax for the Property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Grantor for the use assessment and taxation in accordance with Section 20-4-2(d) of the Fluvanna County Code. Thereafter, this agreement shall remain in effect for a term of 4 years () consecutive tax years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow, consistent with the provisions of this agreement.
5. The County shall have the right at all reasonable times to enter the Property to determine whether the Grantor is complying with the provisions of this agreement.
6. Nothing in this agreement shall be construed to create in the public or member thereof a right to maintain a suit for any damages against the Grantor for any violation of this agreement.
7. Nothing in this agreement shall be construed to permit Grantor to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.
8. If any provision of this agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.
9. The provisions of this agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.
10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whenever the sense requires.
11. This agreement may be terminated in the manner provided in Section 15.2-4314 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.
12. Upon termination of this agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the County determines otherwise in accordance with applicable law.
13. Upon execution of this agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, at the Grantor's expense. The Grantor, as evidenced by the Grantor's signature below, hereby authorizes the County to deliver this agreement to the Clerk's Office for recordation.
14. NOTICE: WHEN THE OPEN SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NONQUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE GRANTOR, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES SHALL BE SUBJECT TO ROLLBACK TAXES IN ACCORDANCE WITH SECTION 58.1-3237 OF THE CODE OF VIRGINIA. THE GRANTOR SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.

Witness the following duly authorized signatures and seals.

[Signature] (SEAL)
Landowner

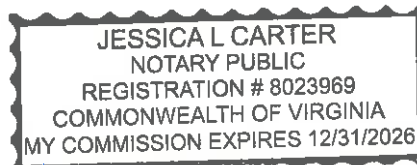
STATE OF Virginia

CITY/COUNTY OF Fluvanna, to-wit:

The foregoing instrument was acknowledged before me this 25th day of September, 2024, by Barry Meade / Benco LLC.

[Signature]
Notary Public

My commission expires: 12/31/2026
Notary registration number: 8023969



[SEAL]

[Signature] (SEAL)
Landowner

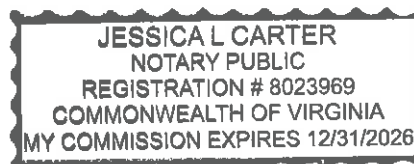
STATE OF Virginia

CITY/COUNTY OF Fluvanna, to-wit:

The foregoing instrument was acknowledged before me this 25th day of September, 2024, by Barry Meade / Benco LLC.

[Signature]
Notary Public

My commission expires: 12/31/2026
Notary registration number: 8023969



[SEAL]

COUNTY OF FLUVANNA, VIRGINIA

By: _____ (SEAL)
County Administrator

STATE OF VIRGINIA

COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, by Eric M. Dahl, County Administrator, on behalf of the County of Fluvanna, Virginia.

Notary Public

[SEAL]

My commission expires:
Notary registration number:

Approved as to form:

Fluvanna County Attorney

Fluvanna County, VA WebGIS

Parcels located off of Shores Road in Scottsville, VA



October 15, 2024

Parcels	Surrounding Counties	Roads Labels	Primary
Town Boundary (From Survey)	County Boundary	Roads	Secondary
		Interstate	

1:8,990

0 0.05 0.1 0.2 mi

0 0.07 0.15 0.3 km

Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB L

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Approval of Open Space Agreement for Valarie Landis Dietrich and Mark O. Dietrich				
MOTION(s):	I move to approve the open space agreement for Valarie Landis Dietrich and Mark O. Dietrich for tax map parcel 38-14-5; agreement shall remain in effect for a term of four (4) consecutive years.				
BOS WORK PLAN?	Yes	No	If yes, which item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
				X	
STAFF CONTACT(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
PRESENTER(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
RECOMMENDATION:	Approval				
TIMING:	Immediate				
DISCUSSION:	This property qualifies for an open space agreement with Fluvanna County in accordance with Code Section 58.1-3230 et. seq. of the Virginia State Code.				
FISCAL IMPACT:	None				
POLICY IMPACT:	In accordance with Section 58.1-3230 et. seq. of Virginia State Code.				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	- Valarie Landis Dietrich & Mark O. Dietrich's executed open space agreement - Map of tax map parcel 38-14-5				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other

Prepared by (Landowner's name and address):

Dietrich, Valarie Landis & Mark O.

709 Rolling Hills Lane

Scottsville, VA 24590

Tax Map Parcels: 38-14-5

After recordation, return to: County of Fluvanna
132 Main Street
Palmyra, VA 22963

This instrument is exempt from Clerk's fees pursuant to Virginia Code Sections 17.1-266 and 17.1-279(E)



OPEN SPACE USE AGREEMENT

THIS AGREEMENT, made this 15th day of October, 2024, by and between Valarie Landis Dietrich and Mark O. Dietrich, party(ies) of the first part, hereinafter called the Grantor (whether one or more), and the COUNTY OF FLUVANNA, a political subdivision of the Commonwealth of Virginia, party of the second part, hereinafter called the County:

WITNESSETH

WHEREAS, the Grantor owns certain real estate, described below, hereinafter called the Property; and

WHEREAS, the County is the local governing body having real estate tax jurisdiction over the Property; and

WHEREAS, the County has determined:

- A. That it is in the public interest that the Property should be provided or preserved for conservation of agricultural and forestal land and of wildlife; and

- B. That the Property meets the applicable criteria for real estate devoted to open-space use as prescribed in Article 4 (Section 58.1-3230 et. seq.) of Chapter 32 of Title 58.1 of the Code of Virginia, and the standards for classifying such real estate prescribed by the Director of the Virginia Department of Conservation and Recreation; and
- C. That the provisions of this agreement meet the requirements and standards prescribed under section 58.1-3233 of the Code of Virginia for recorded commitments by landowners not to change an open-space use to a non-qualifying use; and

WHEREAS, the Grantor is willing to make a written recorded commitment to preserve and protect the open-space uses of the Property during the term of this agreement in order for the Property to be taxed on the basis of a use assessment, and the Grantor has submitted an application for such taxation to the Commissioner of the Revenue of the County pursuant to Section 58.1-3234 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code; and

WHEREAS, the County is willing to extend the tax for the Property on the basis of a use assessment commencing with the next succeeding tax year and continuing for the term of this agreement, in consideration of the Grantor's commitment to preserve and protect the open-space uses of the property, and on the condition that the Grantor's application is satisfactory and that all other requirements of Article 4, Chapter 32, Title 58.1 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code are complied with.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual benefits, covenants and terms herein contained, the parties hereby **COVENANT** and **AGREE** as follows:

1. This agreement shall apply to all the following described real estate:

Tax Map Parcels: 38-14-5 (11 acres)

2. The Grantor agrees that during the term of this agreement:
 - A. There shall be no change in the use or uses of the Property that exist as of the date of this agreement to any use that would not qualify as open-space use. The qualifying use for the Property is conservation of agricultural and forestal land and of wildlife.
 - B. There shall be no display of billboards, signs or other advertisements on the property except to (i) state solely the name of the Grantor and the address of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced pursuant to the permitted use of the Property, or (iv) provide warnings. No sign shall exceed four feet by four feet.
 - C. There shall be no construction, placement or maintenance of any structure on the Property unless such structure is either:
 - 1) on the Property as of the date of this agreement; or

- 2) related to and compatible with the open-space uses of the Property which this agreement is intended to protect or provide for.
- D. There shall be no dumping, storage, or accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.
- E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials which alters the topography of the Property, except as required in the construction of permissible building structures and features under this agreement.
- F. There shall be no construction or placement of fences, screens, hedges, walls or other similar barriers which materially obstruct the public's view of scenic areas of the Property.
- G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Grantor may: (1) engage in agricultural, horticultural or silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia Byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and (2) remove vegetation which constitutes a safety, a health or an ecological hazard, e.g., vegetation classified as a noxious weed pursuant to the Code of Virginia (1950), as amended.
- H. There shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.
- I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.
- J. There shall be no industrial or commercial activities, conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities; or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.
- K. There shall be no separation or split-off of lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of this agreement only as the same entire parcel that is the subject of this agreement, provided, however, that the Grantor may grant to a public body or bodies open-space, conservation or historic preservation easements which apply to all or part of the Property.
3. This agreement shall be effective upon acceptance by the County, provided, however, that the real estate tax for the Property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Grantor for the use assessment and taxation in accordance with Section 20-4-2(d) of the Fluvanna County Code. Thereafter, this agreement shall remain in effect for a term of four (4) consecutive tax years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow, consistent with the provisions of this agreement.
5. The County shall have the right at all reasonable times to enter the Property to determine whether the Grantor is complying with the provisions of this agreement.
6. Nothing in this agreement shall be construed to create in the public or member thereof a right to maintain a suit for any damages against the Grantor for any violation of this agreement.
7. Nothing in this agreement shall be construed to permit Grantor to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.
8. If any provision of this agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.
9. The provisions of this agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.
10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whenever the sense requires.
11. This agreement may be terminated in the manner provided in Section 15.2-4314 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.
12. Upon termination of this agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the County determines otherwise in accordance with applicable law.
13. Upon execution of this agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, at the Grantor's expense. The Grantor, as evidenced by the Grantor's signature below, hereby authorizes the County to deliver this agreement to the Clerk's Office for recordation.
14. NOTICE: WHEN THE OPEN SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NONQUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE GRANTOR, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES SHALL BE SUBJECT TO ROLLBACK TAXES IN ACCORDANCE WITH SECTION 58.1-3237 OF THE CODE OF VIRGINIA. THE GRANTOR SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.

Witness the following duly authorized signatures and seals.

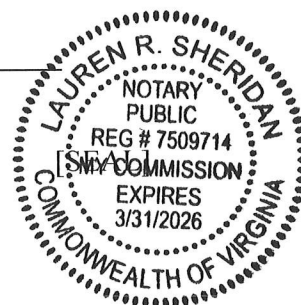
Valerie Landis Dietrich (SEAL)
Landowner

STATE OF Virginia

CITY/COUNTY OF Fluvanna, to-wit:

The foregoing instrument was acknowledged before me this 15th day of October, 2024, by Valerie Landis Dietrich.

Lauren Sheridan
Notary Public



My commission expires: 3/31/26
Notary registration number: 7509714

Mark O. Dietrich (SEAL)
Landowner

STATE OF Virginia

CITY/COUNTY OF Fluvanna, to-wit:

The foregoing instrument was acknowledged before me this 15th day of October, 2024, by Mark O. Dietrich.

Lauren Sheridan
Notary Public



My commission expires: 3/31/26
Notary registration number: 7509714

COUNTY OF FLUVANNA, VIRGINIA

By: _____ (SEAL)
County Administrator

STATE OF VIRGINIA

COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by Eric M. Dahl, County Administrator, on behalf of the County of Fluvanna, Virginia.

Notary Public

[SEAL]

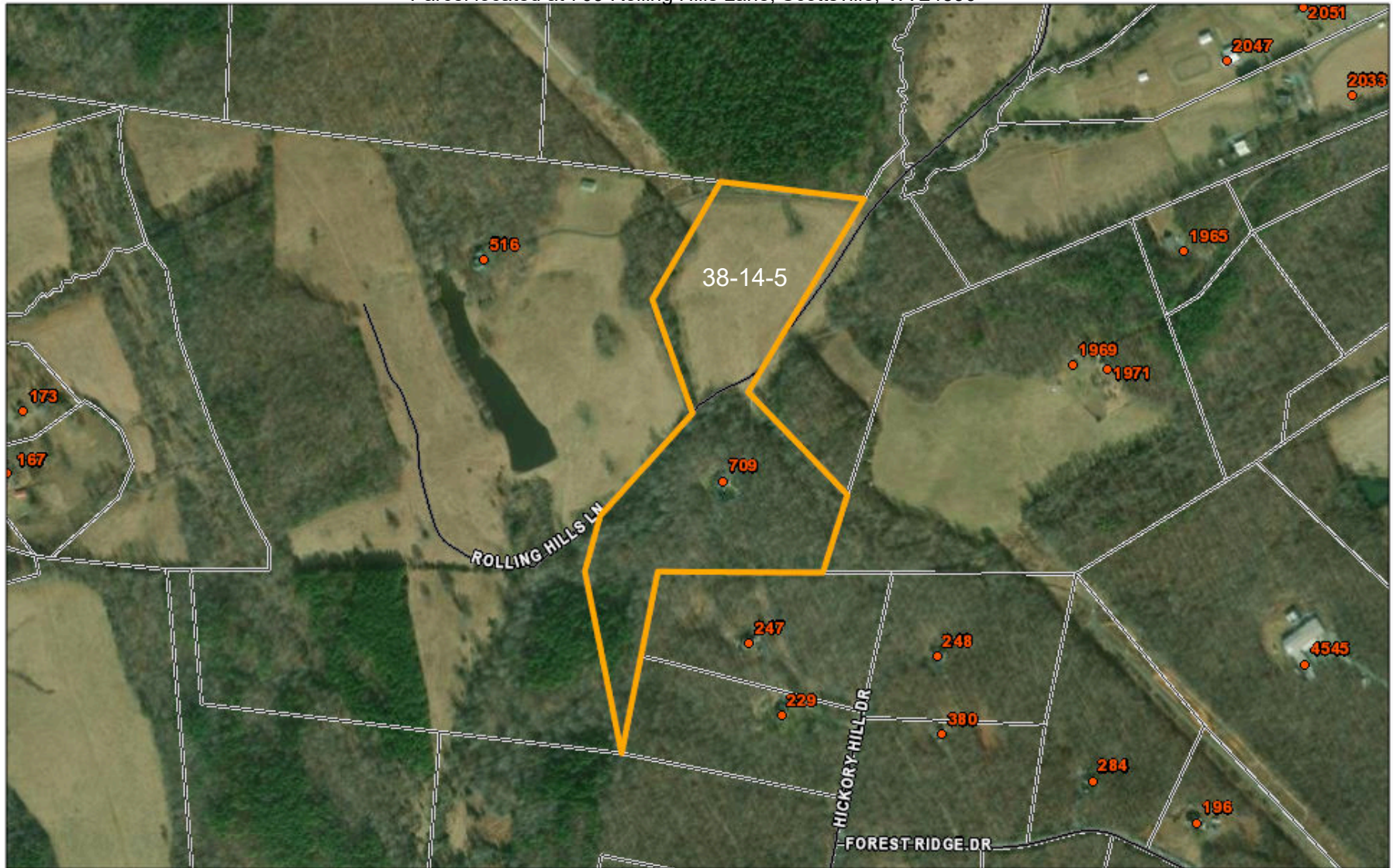
My commission expires:
Notary registration number:

Approved as to form:

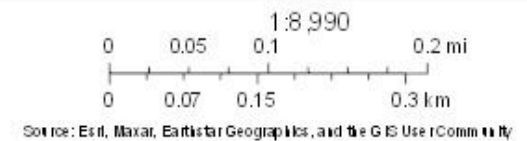
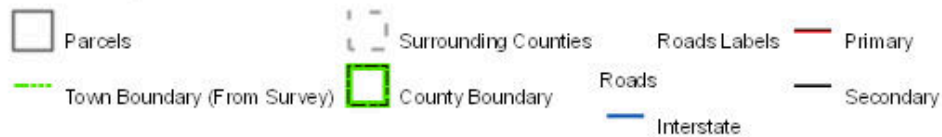
Fluvanna County Attorney

Fluvanna County, VA WebGIS Parcels - PIN: 38 14 5

Parcel located at 709 Rolling Hills Lane, Scottsville, VA 24590



October 15, 2024



**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB M

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Approval of Open Space Agreement for James J. Ehrmann and Diane B. Ehrmann				
MOTION(s):	I move to approve the open space agreement for James J. Ehrmann and Diane B. Ehrmann for tax map parcel 10-A-68; agreement shall remain in effect for a term of five (5) consecutive years.				
BOS WORK PLAN?	Yes	No	If yes, which item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
				X	
STAFF CONTACT(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
PRESENTER(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
RECOMMENDATION:	Approval				
TIMING:	Immediate				
DISCUSSION:	This property qualifies for an open space agreement with Fluvanna County in accordance with Code Section 58.1-3230 et. seq. of the Virginia State Code.				
FISCAL IMPACT:	None				
POLICY IMPACT:	In accordance with Section 58.1-3230 et. seq. of Virginia State Code.				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	<ul style="list-style-type: none"> - James J. Ehrmann & Diane B. Ehrmann's executed open space agreement - Map of tax map parcel 10-A-68 				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other

Prepared by (Landowner's name and address):

Ehrmann, James J. & Diane B.

2493 North Boston Rd.

Troy, VA 22974

Tax Map Parcels: 10-A-68

After recordation, return to: County of Fluvanna
132 Main Street
Palmyra, VA 22963

This instrument is exempt from Clerk's fees pursuant to Virginia Code Sections 17.1-266 and 17.1-279(E)



OPEN SPACE USE AGREEMENT

THIS AGREEMENT, made this 23 day of OCTOBER, 2024,
by and between James J. Ehrmann & Diane B. Ehrmann, party(ies) of the first part,
hereinafter called the Grantor (whether one or more), and the COUNTY OF FLUVANNA, a
political subdivision of the Commonwealth of Virginia, party of the second part, hereinafter
called the County:

WITNESSETH

WHEREAS, the Grantor owns certain real estate, described below, hereinafter called the
Property; and

WHEREAS, the County is the local governing body having real estate tax jurisdiction
over the Property; and

WHEREAS, the County has determined:

- A. That it is in the public interest that the Property should be provided or preserved for
conservation of agricultural and forestal land and of wildlife; and

- B. That the Property meets the applicable criteria for real estate devoted to open-space use as prescribed in Article 4 (Section 58.1-3230 et. seq.) of Chapter 32 of Title 58.1 of the Code of Virginia, and the standards for classifying such real estate prescribed by the Director of the Virginia Department of Conservation and Recreation; and
- C. That the provisions of this agreement meet the requirements and standards prescribed under section 58.1-3233 of the Code of Virginia for recorded commitments by landowners not to change an open-space use to a non-qualifying use; and

WHEREAS, the Grantor is willing to make a written recorded commitment to preserve and protect the open-space uses of the Property during the term of this agreement in order for the Property to be taxed on the basis of a use assessment, and the Grantor has submitted an application for such taxation to the Commissioner of the Revenue of the County pursuant to Section 58.1-3234 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code; and

WHEREAS, the County is willing to extend the tax for the Property on the basis of a use assessment commencing with the next succeeding tax year and continuing for the term of this agreement, in consideration of the Grantor's commitment to preserve and protect the open-space uses of the property, and on the condition that the Grantor's application is satisfactory and that all other requirements of Article 4, Chapter 32, Title 58.1 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code are complied with.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual benefits, covenants and terms herein contained, the parties hereby **COVENANT** and **AGREE** as follows:

1. This agreement shall apply to all the following described real estate:

Tax Map Parcels: 10-A-68 (23.205 acres)

2. The Grantor agrees that during the term of this agreement:
 - A. There shall be no change in the use or uses of the Property that exist as of the date of this agreement to any use that would not qualify as open-space use. The qualifying use for the Property is conservation of agricultural and forestal land and of wildlife.
 - B. There shall be no display of billboards, signs or other advertisements on the property except to (i) state solely the name of the Grantor and the address of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced pursuant to the permitted use of the Property, or (iv) provide warnings. No sign shall exceed four feet by four feet.
 - C. There shall be no construction, placement or maintenance of any structure on the Property unless such structure is either:
 - 1) on the Property as of the date of this agreement; or

- 2) related to and compatible with the open-space uses of the Property which this agreement is intended to protect or provide for.
- D. There shall be no dumping, storage, or accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.
- E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials which alters the topography of the Property, except as required in the construction of permissible building structures and features under this agreement.
- F. There shall be no construction or placement of fences, screens, hedges, walls or other similar barriers which materially obstruct the public's view of scenic areas of the Property.
- G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Grantor may: (1) engage in agricultural, horticultural or silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia Byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and (2) remove vegetation which constitutes a safety, a health or an ecological hazard, e.g., vegetation classified as a noxious weed pursuant to the Code of Virginia (1950), as amended.
- H. There shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.
- I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.
- J. There shall be no industrial or commercial activities, conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities; or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.
- K. There shall be no separation or split-off of lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of this agreement only as the same entire parcel that is the subject of this agreement, provided, however, that the Grantor may grant to a public body or bodies open-space, conservation or historic preservation easements which apply to all or part of the Property.
3. This agreement shall be effective upon acceptance by the County, provided, however, that the real estate tax for the Property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Grantor for the use assessment and taxation in accordance with Section 20-4-2(d) of the Fluvanna County Code. Thereafter, this agreement shall remain in effect for a term of _____
(5) consecutive tax years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow, consistent with the provisions of this agreement.
5. The County shall have the right at all reasonable times to enter the Property to determine whether the Grantor is complying with the provisions of this agreement.
6. Nothing in this agreement shall be construed to create in the public or member thereof a right to maintain a suit for any damages against the Grantor for any violation of this agreement.
7. Nothing in this agreement shall be construed to permit Grantor to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.
8. If any provision of this agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.
9. The provisions of this agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.
10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whenever the sense requires.
11. This agreement may be terminated in the manner provided in Section 15.2-4314 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.
12. Upon termination of this agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the County determines otherwise in accordance with applicable law.
13. Upon execution of this agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, at the Grantor's expense. The Grantor, as evidenced by the Grantor's signature below, hereby authorizes the County to deliver this agreement to the Clerk's Office for recordation.
14. NOTICE: WHEN THE OPEN SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NONQUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE GRANTOR, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES SHALL BE SUBJECT TO ROLLBACK TAXES IN ACCORDANCE WITH SECTION 58.1-3237 OF THE CODE OF VIRGINIA. THE GRANTOR SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.

Witness the following duly authorized signatures and seals.

[Signature] (SEAL)
Landowner

STATE OF VIRGINIA

CITY/COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this 23 day of October, 2024, by ~~Amanda M. Brady~~ James Ehrmann. AMB

AMANDA M. BRADY
NOTARY PUBLIC
REG. #7578655
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MAY 31, 2028

[Signature]
Notary Public

[SEAL]

My commission expires: May 31, 2028
Notary registration number: 7578655

[Signature] (SEAL)
Landowner

STATE OF VIRGINIA

CITY/COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this 23 day of October, 2024, by ~~Amanda M. Brady~~ Diane Ehrmann. AMB

[Signature]
Notary Public

[SEAL]

My commission expires: May 31, 2028
Notary registration number: 7578655

AMANDA M. BRADY
NOTARY PUBLIC
REG. #7578655
COMMONWEALTH OF VIRGINIA
MY COMMISSION EXPIRES MAY 31, 2028

COUNTY OF FLUVANNA, VIRGINIA

By: _____ (SEAL)
County Administrator

STATE OF VIRGINIA

COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
_____, by Eric M. Dahl, County Administrator, on behalf of the County of Fluvanna, Virginia.

Notary Public

[SEAL]

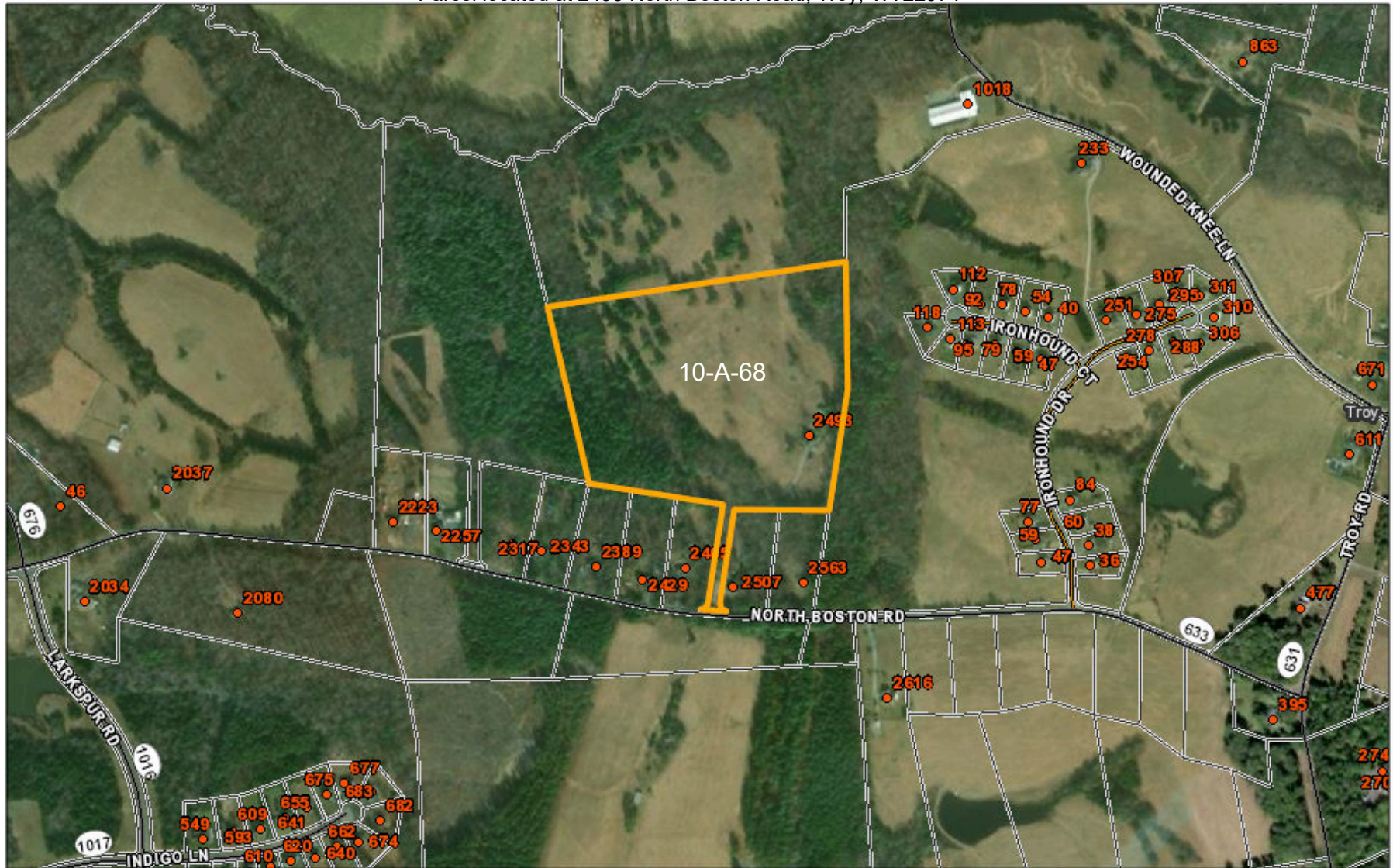
My commission expires:
Notary registration number:

Approved as to form:

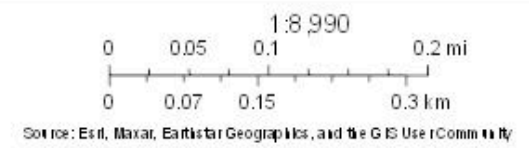
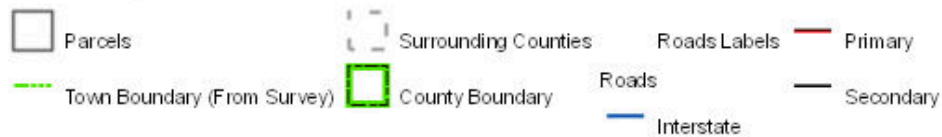
Fluvanna County Attorney

Fluvanna County, VA WebGIS Parcels - PIN: 10 A 68

Parcel located at 2493 North Boston Road, Troy, VA 22974



October 25, 2024



**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB N

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Approval of Open Space Agreement for Kevin D. Marshall and Christen L. Marshall				
MOTION(s):	I move to approve the open space agreement for Kevin D. Marshall and Christen L. Marshall for tax map parcel 28-10-15; agreement shall remain in effect for a term of five (5) consecutive years.				
BOS WORK PLAN?	Yes	No	If yes, which item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
				X	
STAFF CONTACT(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
PRESENTER(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
RECOMMENDATION:	Approval				
TIMING:	Immediate				
DISCUSSION:	This property qualifies for an open space agreement with Fluvanna County in accordance with Code Section 58.1-3230 et. seq. of the Virginia State Code.				
FISCAL IMPACT:	None				
POLICY IMPACT:	In accordance with Section 58.1-3230 et. seq. of Virginia State Code.				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	- Kevin D. Marshall & Christen L. Marshall's executed open space agreement - Map of tax map parcel 28-10-15				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other

Prepared by (Landowner's name and address):

Marshall, Kevin D. & Christen L.

1989 Long Acre Rd.

Palmyra, VA 22963

Tax Map Parcels: 28-10-15

After recordation, return to: County of Fluvanna
132 Main Street
Palmyra, VA 22963

This instrument is exempt from Clerk's fees pursuant to Virginia Code Sections 17.1-266 and 17.1-279(E)



OPEN SPACE USE AGREEMENT

THIS AGREEMENT, made this 18th day of October, 2024, by and between Kevin D. Marshall & Christen L. Marshall, party(ies) of the first part, hereinafter called the Grantor (whether one or more), and the COUNTY OF FLUVANNA, a political subdivision of the Commonwealth of Virginia, party of the second part, hereinafter called the County:

WITNESSETH

WHEREAS, the Grantor owns certain real estate, described below, hereinafter called the Property; and

WHEREAS, the County is the local governing body having real estate tax jurisdiction over the Property; and

WHEREAS, the County has determined:

- A. That it is in the public interest that the Property should be provided or preserved for conservation of agricultural and forestal land and of wildlife; and

- B. That the Property meets the applicable criteria for real estate devoted to open-space use as prescribed in Article 4 (Section 58.1-3230 et. seq.) of Chapter 32 of Title 58.1 of the Code of Virginia, and the standards for classifying such real estate prescribed by the Director of the Virginia Department of Conservation and Recreation; and
- C. That the provisions of this agreement meet the requirements and standards prescribed under section 58.1-3233 of the Code of Virginia for recorded commitments by landowners not to change an open-space use to a non-qualifying use; and

WHEREAS, the Grantor is willing to make a written recorded commitment to preserve and protect the open-space uses of the Property during the term of this agreement in order for the Property to be taxed on the basis of a use assessment, and the Grantor has submitted an application for such taxation to the Commissioner of the Revenue of the County pursuant to Section 58.1-3234 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code; and

WHEREAS, the County is willing to extend the tax for the Property on the basis of a use assessment commencing with the next succeeding tax year and continuing for the term of this agreement, in consideration of the Grantor's commitment to preserve and protect the open-space uses of the property, and on the condition that the Grantor's application is satisfactory and that all other requirements of Article 4, Chapter 32, Title 58.1 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code are complied with.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual benefits, covenants and terms herein contained, the parties hereby **COVENANT** and **AGREE** as follows:

1. This agreement shall apply to all the following described real estate:

Tax Map Parcels: 28-10-15 (17.27 acres)

2. The Grantor agrees that during the term of this agreement:
 - A. There shall be no change in the use or uses of the Property that exist as of the date of this agreement to any use that would not qualify as open-space use. The qualifying use for the Property is conservation of agricultural and forestal land and of wildlife.
 - B. There shall be no display of billboards, signs or other advertisements on the property except to (i) state solely the name of the Grantor and the address of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced pursuant to the permitted use of the Property, or (iv) provide warnings. No sign shall exceed four feet by four feet.
 - C. There shall be no construction, placement or maintenance of any structure on the Property unless such structure is either:
 - 1) on the Property as of the date of this agreement; or

- 2) related to and compatible with the open-space uses of the Property which this agreement is intended to protect or provide for.
- D. There shall be no dumping, storage, or accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.
- E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials which alters the topography of the Property, except as required in the construction of permissible building structures and features under this agreement.
- F. There shall be no construction or placement of fences, screens, hedges, walls or other similar barriers which materially obstruct the public's view of scenic areas of the Property.
- G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Grantor may: (1) engage in agricultural, horticultural or silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia Byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and (2) remove vegetation which constitutes a safety, a health or an ecological hazard, e.g., vegetation classified as a noxious weed pursuant to the Code of Virginia (1950), as amended.
- H. There shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.
- I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.
- J. There shall be no industrial or commercial activities, conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities; or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.
- K. There shall be no separation or split-off of lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of this agreement only as the same entire parcel that is the subject of this agreement, provided, however, that the Grantor may grant to a public body or bodies open-space, conservation or historic preservation easements which apply to all or part of the Property.
3. This agreement shall be effective upon acceptance by the County, provided, however, that the real estate tax for the Property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Grantor for the use assessment and taxation in accordance with Section 20-4-2(d) of the Fluvanna County Code. Thereafter, this agreement shall remain in effect for a term of five (5) consecutive tax years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow, consistent with the provisions of this agreement.
5. The County shall have the right at all reasonable times to enter the Property to determine whether the Grantor is complying with the provisions of this agreement.
6. Nothing in this agreement shall be construed to create in the public or member thereof a right to maintain a suit for any damages against the Grantor for any violation of this agreement.
7. Nothing in this agreement shall be construed to permit Grantor to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.
8. If any provision of this agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.
9. The provisions of this agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.
10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whenever the sense requires.
11. This agreement may be terminated in the manner provided in Section 15.2-4314 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.
12. Upon termination of this agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the County determines otherwise in accordance with applicable law.
13. Upon execution of this agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, at the Grantor's expense. The Grantor, as evidenced by the Grantor's signature below, hereby authorizes the County to deliver this agreement to the Clerk's Office for recordation.
14. NOTICE: WHEN THE OPEN SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NONQUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE GRANTOR, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES SHALL BE SUBJECT TO ROLLBACK TAXES IN ACCORDANCE WITH SECTION 58.1-3237 OF THE CODE OF VIRGINIA. THE GRANTOR SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.

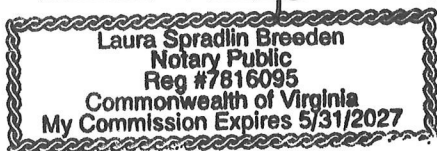
Witness the following duly authorized signatures and seals.

Kevin D Marshall (SEAL)
Landowner

STATE OF Virginia

CITY/COUNTY OF Fleming, to-wit:

The foregoing instrument was acknowledged before me this 18 day of October, 2024, by Kevin D. Marshall.



Laura Spradlin Breeden
Notary Public

[SEAL]

My commission expires:
Notary registration number:

Kevin D Marshall (SEAL)
Landowner

STATE OF Virginia

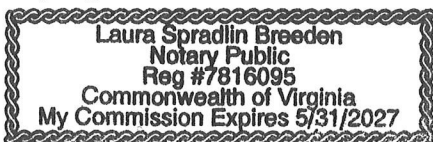
CITY/COUNTY OF Fleming, to-wit:

The foregoing instrument was acknowledged before me this 18 day of October, 2024, by Christen D. Marshall.

Laura Spradlin Breeden
Notary Public

[SEAL]

My commission expires:
Notary registration number:



COUNTY OF FLUVANNA, VIRGINIA

By: _____ (SEAL)
County Administrator

STATE OF VIRGINIA

COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
_____, by Eric M. Dahl, County Administrator, on behalf of the County of Fluvanna, Virginia.

Notary Public

[SEAL]

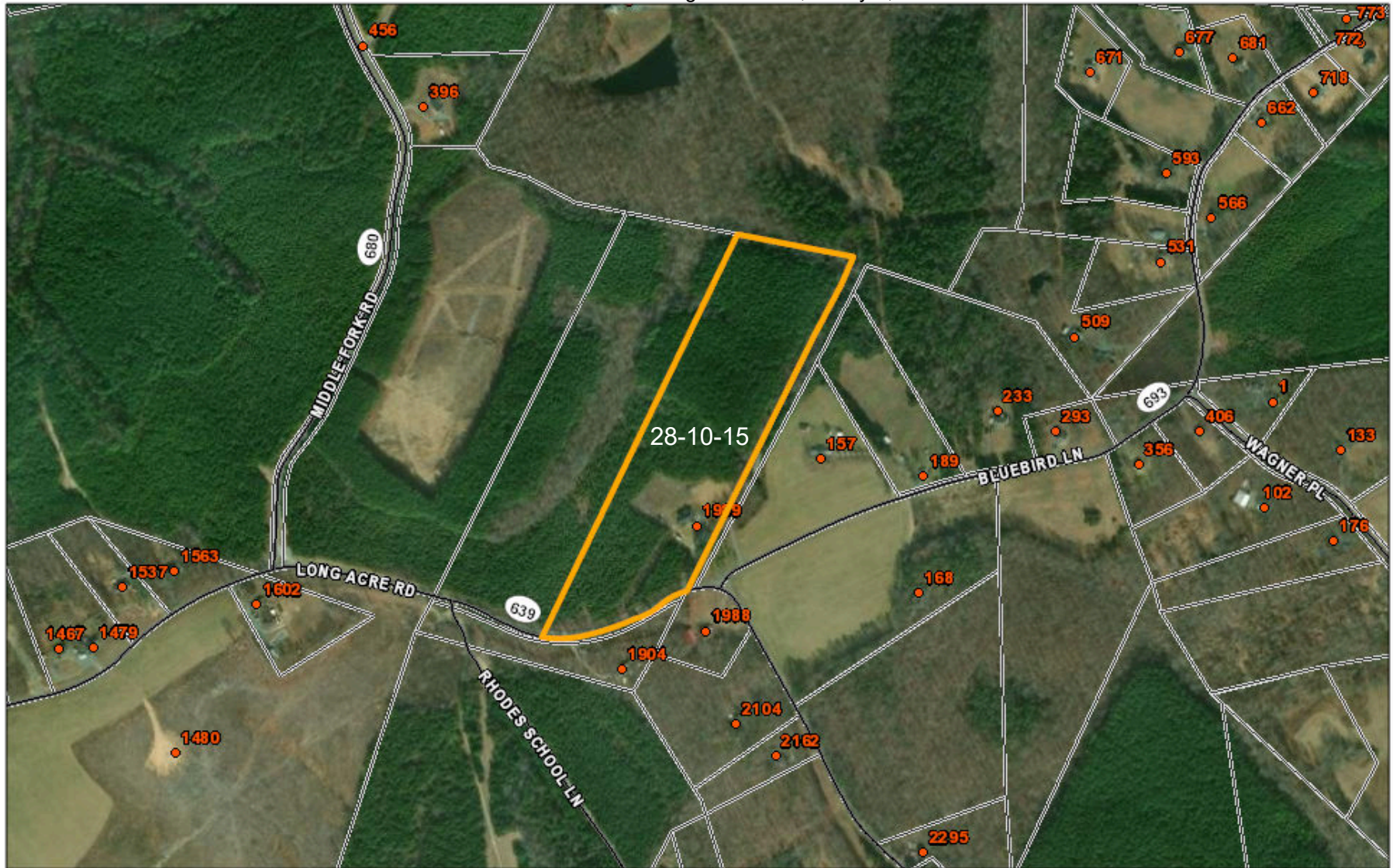
My commission expires:
Notary registration number:

Approved as to form:

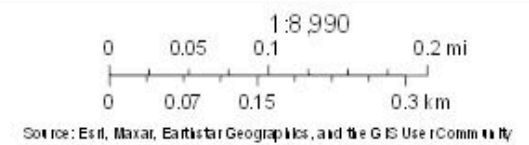
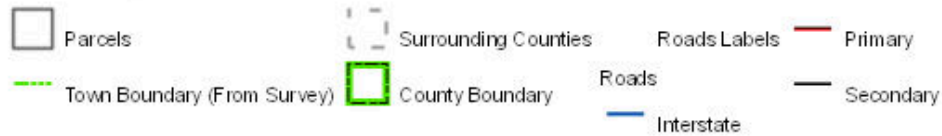
Fluvanna County Attorney

Fluvanna County, VA WebGIS Parcels - PIN: 28 10 15

Parcel located at 1989 Long Acre Road, Palmyra, VA 22963



October 25, 2024



**FLUVANNA COUNTY BOARD OF SUPERVISORS
AGENDA ITEM STAFF REPORT**

TAB O

MEETING DATE:	November 20, 2024				
AGENDA TITLE:	Approval of Open Space Agreement for Austin Michael Sebetzki				
MOTION(s):	I move to approve the open space agreement for Austin Michael Sebetzki for tax map parcel 30-6-A2; agreement shall remain in effect for a term of four (4) consecutive years.				
BOS WORK PLAN?	Yes	No	If yes, which item(s):		
		X			
AGENDA CATEGORY:	Public Hearing	Action Matter	Presentation	Consent Agenda	Other
				X	
STAFF CONTACT(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
PRESENTER(S):	Andrew M. Sheridan, Jr., Commissioner of the Revenue				
RECOMMENDATION:	Approval				
TIMING:	Immediate				
DISCUSSION:	This property qualifies for an open space agreement with Fluvanna County in accordance with Code Section 58.1-3230 et. seq. of the Virginia State Code.				
FISCAL IMPACT:	None				
POLICY IMPACT:	In accordance with Section 58.1-3230 et. seq. of Virginia State Code.				
LEGISLATIVE HISTORY:	N/A				
ENCLOSURES:	<ul style="list-style-type: none"> - Austin Michael Sebetzki's executed open space agreement - Map of tax map parcel 30-6-A2 				
REVIEWS COMPLETED:	Legal	Finance	Purchasing	HR	Other

Prepared by (Landowner's name and address):

Sebetzki, Austin Michael

3 Old Homestead Circle

Palmyra, VA 22963

Tax Map Parcels: 30-6-A2

After recordation, return to: County of Fluvanna
132 Main Street
Palmyra, VA 22963

This instrument is exempt from Clerk's fees pursuant to Virginia Code Sections 17.1-266 and 17.1-279(E)



OPEN SPACE USE AGREEMENT

THIS AGREEMENT, made this 21 day of October, 2024,
by and between Austin Michael Sebetzki, party(ies) of the first part, hereinafter called
the Grantor (whether one or more), and the COUNTY OF FLUVANNA, a political subdivision
of the Commonwealth of Virginia, party of the second part, hereinafter called the County:

WITNESSETH

WHEREAS, the Grantor owns certain real estate, described below, hereinafter called the
Property; and

WHEREAS, the County is the local governing body having real estate tax jurisdiction
over the Property; and

WHEREAS, the County has determined:

- A. That it is in the public interest that the Property should be provided or preserved for conservation of agricultural and forestal land and of wildlife; and
- B. That the Property meets the applicable criteria for real estate devoted to open-space use as prescribed in Article 4 (Section 58.1-3230 et. seq.) of Chapter 32 of Title 58.1 of the

Code of Virginia, and the standards for classifying such real estate prescribed by the Director of the Virginia Department of Conservation and Recreation; and

- C. That the provisions of this agreement meet the requirements and standards prescribed under section 58.1-3233 of the Code of Virginia for recorded commitments by landowners not to change an open-space use to a non-qualifying use; and

WHEREAS, the Grantor is willing to make a written recorded commitment to preserve and protect the open-space uses of the Property during the term of this agreement in order for the Property to be taxed on the basis of a use assessment, and the Grantor has submitted an application for such taxation to the Commissioner of the Revenue of the County pursuant to Section 58.1-3234 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code; and

WHEREAS, the County is willing to extend the tax for the Property on the basis of a use assessment commencing with the next succeeding tax year and continuing for the term of this agreement, in consideration of the Grantor's commitment to preserve and protect the open-space uses of the property, and on the condition that the Grantor's application is satisfactory and that all other requirements of Article 4, Chapter 32, Title 58.1 of the Code of Virginia and Section 20-4-2(d) of the Fluvanna County Code are complied with.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual benefits, covenants and terms herein contained, the parties hereby **COVENANT** and **AGREE** as follows:

1. This agreement shall apply to all the following described real estate:

Tax Map Parcels: 30-6-A2 (10.927 acres)

2. The Grantor agrees that during the term of this agreement:
 - A. There shall be no change in the use or uses of the Property that exist as of the date of this agreement to any use that would not qualify as open-space use. The qualifying use for the Property is conservation of agricultural and forestal land and of wildlife.
 - B. There shall be no display of billboards, signs or other advertisements on the property except to (i) state solely the name of the Grantor and the address of the Property, (ii) advertise the sale or lease of the Property, (iii) advertise the sale of goods or services produced pursuant to the permitted use of the Property, or (iv) provide warnings. No sign shall exceed four feet by four feet.
 - C. There shall be no construction, placement or maintenance of any structure on the Property unless such structure is either:
 - 1) on the Property as of the date of this agreement; or
 - 2) related to and compatible with the open-space uses of the Property which this agreement is intended to protect or provide for.

- D. There shall be no dumping, storage, or accumulations of trash, garbage, ashes, waste, junk, abandoned property or other unsightly or offensive material on the Property.
 - E. There shall be no filling, excavating, mining, drilling, removal of topsoil, sand, gravel, rock, minerals, or other materials which alters the topography of the Property, except as required in the construction of permissible building structures and features under this agreement.
 - F. There shall be no construction or placement of fences, screens, hedges, walls or other similar barriers which materially obstruct the public's view of scenic areas of the Property.
 - G. There shall be no removal or destruction of trees, shrubs, plants and other vegetation, except that the Grantor may: (1) engage in agricultural, horticultural or silvicultural activities, provided that there shall be no cutting of trees, other than selective cutting and salvage of dead or dying trees, within 100 feet of a scenic river, a scenic highway, a Virginia Byway or public property listed in the approved State Comprehensive Outdoor Recreation Plan (Virginia Outdoors Plan); and (2) remove vegetation which constitutes a safety, a health or an ecological hazard, e.g., vegetation classified as a noxious weed pursuant to the Code of Virginia (1950), as amended.
 - H. There shall be no alteration or manipulation of natural water courses, shores, marshes, swamps, wetlands or other water bodies, nor any activities or uses which adversely affect water quality, level or flow.
 - I. On areas of the Property that are being provided or preserved for conservation of land, floodways or other natural resources, or that are to be left in a relatively natural or undeveloped state, there shall be no operation of dune buggies, all-terrain vehicles, motorcycles, motorbikes, snowmobiles or other motor vehicles, except to the extent necessary to inspect, protect or preserve the area.
 - J. There shall be no industrial or commercial activities, conducted on the Property, except for the continuation of agricultural, horticultural or silvicultural activities; or activities that are conducted in a residence or an associated outbuilding such as a garage, smokehouse, small shop or similar structure which is permitted on the property.
 - K. There shall be no separation or split-off of lots, pieces or parcels from the Property. The Property may be sold or transferred during the term of this agreement only as the same entire parcel that is the subject of this agreement, provided, however, that the Grantor may grant to a public body or bodies open-space, conservation or historic preservation easements which apply to all or part of the Property.
3. This agreement shall be effective upon acceptance by the County, provided, however, that the real estate tax for the Property shall not be extended on the basis of its use value until the next succeeding tax year following timely application by the Grantor for the use assessment and taxation in accordance with Section 20-4-2(d) of the Fluvanna County Code. Thereafter, this agreement shall remain in effect for a term of four (4) consecutive tax years.

4. Nothing contained herein shall be construed as giving to the public a right to enter upon or to use the Property or any portion thereof, except as the Grantor may otherwise allow, consistent with the provisions of this agreement.
5. The County shall have the right at all reasonable times to enter the Property to determine whether the Grantor is complying with the provisions of this agreement.
6. Nothing in this agreement shall be construed to create in the public or member thereof a right to maintain a suit for any damages against the Grantor for any violation of this agreement.
7. Nothing in this agreement shall be construed to permit Grantor to conduct any activity or to build or maintain any improvement which is otherwise prohibited by law.
8. If any provision of this agreement is determined to be invalid by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.
9. The provisions of this agreement shall run with the land and be binding upon the parties, their successors, assigns, personal representatives, and heirs.
10. Words of one gender used herein shall include the other gender, and words in the singular shall include words in the plural, whenever the sense requires.
11. This agreement may be terminated in the manner provided in Section 15.2-4314 of the Code of Virginia for withdrawal of land from an agricultural, a forestal or an agricultural and forestal district.
12. Upon termination of this agreement, the Property shall thereafter be assessed and taxed at its fair market value, regardless of its actual use, unless the County determines otherwise in accordance with applicable law.
13. Upon execution of this agreement, it shall be recorded with the record of land titles in the Clerk's Office of the Circuit Court of Fluvanna County, Virginia, at the Grantor's expense. The Grantor, as evidenced by the Grantor's signature below, hereby authorizes the County to deliver this agreement to the Clerk's Office for recordation.
14. NOTICE: WHEN THE OPEN SPACE USE OR USES BY WHICH THE PROPERTY QUALIFIED FOR ASSESSMENT AND TAXATION ON THE BASIS OF USE CHANGES TO A NONQUALIFYING USE OR USES, OR WHEN THE ZONING FOR THE PROPERTY CHANGES TO A MORE INTENSIVE USE AT THE REQUEST OF THE GRANTOR, THE PROPERTY, OR SUCH PORTION OF THE PROPERTY WHICH NO LONGER QUALIFIES SHALL BE SUBJECT TO ROLLBACK TAXES IN ACCORDANCE WITH SECTION 58.1-3237 OF THE CODE OF VIRGINIA. THE GRANTOR SHALL BE SUBJECT TO ALL OF THE OBLIGATIONS AND LIABILITIES OF SAID CODE SECTION.

COUNTY OF FLUVANNA, VIRGINIA

By: _____ (SEAL)
County Administrator

STATE OF VIRGINIA

COUNTY OF FLUVANNA, to-wit:

The foregoing instrument was acknowledged before me this ____ day of _____,
_____, by Eric M. Dahl, County Administrator, on behalf of the County of Fluvanna, Virginia.

Notary Public

[SEAL]

My commission expires:
Notary registration number:

Approved as to form:

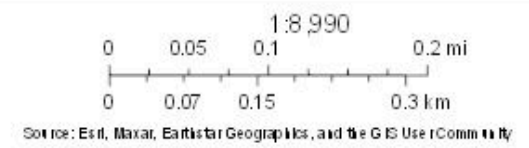
Fluvanna County Attorney

Fluvanna County, VA WebGIS Parcels - PIN: 30 6 A2

Parcel located at 555 Thomas Jefferson Parkway, Palmyra, VA 22963



October 21, 2024





Capital Reserve Maintenance Fund Request

TABP

MOTION: I move that the Board of Supervisors approve a Capital Reserve Maintenance Fund Request in the amount of **\$11,500.00** for the purpose(s) of:
demolition and removal of the two building/class rooms next to Abrams Academy.

Section 1 - REQUEST

Requesting Department/Agency FCPS	Dept/Agency Contact Don Stribling	Date of Request 11/13/2024
Phone (434) 589-5948	Fax (434) 589-5393	Fiscal Year FY25

Reserve Fund Purpose Category: **Non-recurring project**

Description of Project/Repair	Qty	Unit Price	Total Price
Abrams Academy Building removal	2	\$5,750.00	\$11,500.00
			\$0.00
			\$0.00
			\$0.00

Total Request: **\$11,500.00**

Description and justification for proposed use.

Demolition and removal of the two building/class rooms next to Abrams Academy leaving only the footers.

Department/Agency Head Name Don Stribling	Signature Don Stribling <small>Digitally signed by Don Stribling DN: cn=Don Stribling, o=FCPS, ou=FCPS, email=dstribling@apps.fluco.org, c=US Date: 2018.08.21 13:12:45 -04'00'</small>	Date 11/13/2024
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Section 2 - REVIEW

Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Finance Director Tori Melton <small>Digitally signed by Tori Melton Date: 2024.11.14 11:21:39 -05'00'</small>	Date
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Administrator Eric Dahl <small>Digitally signed by Eric Dahl Date: 2024.11.14 13:27:07 -05'00'</small>	Date

Section 3 - BOARD OF SUPERVISORS

Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Decision Date	Comments
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Capital Reserve Maintenance Fund Request

TAB Q

MOTION: I move that the Board of Supervisors approve a Capital Reserve Maintenance Fund Request in the amount of \$10,340.00 for the purpose(s) of:
Administration Building IT room HVAC replacement

Section 1 - REQUEST

Requesting Department/Agency Public Works PW25-006	Dept/Agency Contact Dale Critzer	Date of Request 10/09/2024
Phone (434) 591-1925	Fax (434) 591-1924	Fiscal Year FY25

Reserve Fund Purpose Category: **Failure of equipment after warranty expiration but before expected lifecycle**

Description of Project/Repair	Qty	Unit Price	Total Price
Daiken Ductless Split HVAC Equipment	1	\$3,370.00	\$3,370.00
Labor to install	1	\$5,220.00	\$5,220.00
Misc Materials	1	\$1,000.00	\$1,000.00
Contingency for unforeseen issues	1	\$750.00	\$750.00

Total Request: **\$10,340.00**

Description and justification for proposed use.

The Administration Building IT room HVAC is failing and parts for this unit are no longer available from the manufacturer .

Department/Agency Head Name Assistant Director of Public Works	Signature Dale Critzer <small>Digitally signed by Dale Critzer Date: 2024.10.09 10:43:40 -04'00'</small>	Date 10/09/2024
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Section 2 - REVIEW

Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Finance Director Tori Melton <small>Digitally signed by Tori Melton Date: 2024.11.14 10:06:48 -05'00'</small>	Date
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Administrator Eric Dahl <small>Digitally signed by Eric Dahl Date: 2024.11.14 13:27:54 -05'00'</small>	Date

Section 3 - BOARD OF SUPERVISORS

Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Decision Date	Comments
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Capital Reserve Maintenance Fund Request

TABR

MOTION: I move that the Board of Supervisors approve a Capital Reserve Maintenance Fund Request in the amount of **\$8,224.45** for the purpose(s) of: **furnishing and installing 9 HVAC contactors that were damaged during the storm power outage.**

Section 1 - REQUEST

Requesting Department/Agency FCPS	Dept/Agency Contact Don Stribling	Date of Request 10/15/2024
Phone (434) 589-5948	Fax (434) 589-5393	Fiscal Year FY25

Reserve Fund Purpose Category: **Repair required due to weather-related events**

Description of Project/Repair	Qty	Unit Price	Total Price
Furnish and install contactors	1	\$8,224.45	\$8,224.45
			\$0.00
			\$0.00
			\$0.00

Total Request: **\$8,224.45**

Description and justification for proposed use.

During the storms, power outages, and surges it was determined that there were 9 contactors that were damaged and needed to be replaced. Contactors are meant to trip when a VRF HVAC unit loses power in an effort to save the unit. In this case the units lost a single phase of power with multiple surges, which continuously damaged the contactors and "burnt" them up.

Department/Agency Head Name Don Stribling	Signature Don Stribling <small>Digitally signed by Don Stribling DN: cn=Don Stribling, c=FCPS, ou=FCPS, email=dstribling@apps.fluco.org, c=US Date: 2018.08.21 13:12:45 -04'00'</small>	Date 10/15/2024
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Section 2 - REVIEW

Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Finance Director Tori Melton <small>Digitally signed by Tori Melton Date: 2024.11.14 11:21:00 -05'00'</small>	Date
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Administrator Eric Dahl <small>Digitally signed by Eric Dahl Date: 2024.11.14 13:28:53 -05'00'</small>	Date

Section 3 - BOARD OF SUPERVISORS

Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Decision Date	Comments
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Capital Reserve Maintenance Fund Request

TAB S

MOTION: I move that the Board of Supervisors approve a Capital Reserve Maintenance Fund Request in the amount of **\$9,171.00 for the purpose(s) of: replacing and installing several items damaged due to weather and power surges.**

Section 1 - REQUEST

Requesting Department/Agency FCPS	Dept/Agency Contact Don Stribling	Date of Request 11/13/2024
Phone (434) 589-5948	Fax (434) 589-5393	Fiscal Year FY25

Reserve Fund Purpose Category: **Repair required due to weather-related events**

Description of Project/Repair	Qty	Unit Price	Total Price
			\$0.00
			\$0.00
(CEN) 15 HP drive AHU in mechanical room	1	\$6,059.00	\$6,059.00
(FMS) 3 HP drive in rooftop AHU	1	\$3,112.00	\$3,112.00
Total Request:			\$9,171.00

Description and justification for proposed use.

These projects were a result of weather, power outages, and power surges that we recieved in early October. FCPS has also put them in as claims with VACORP, our insuracne provider.

Department/Agency Head Name Don Stribling	Signature Don Stribling <small>Digitally signed by Don Stribling DN: cn=Don Stribling, o=FCPS, ou=FCPS, email=dstribling@apps.fluco.org, c=US Date: 2018.08.21 13:12:45 -04'00'</small>	Date 11/13/2024
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Section 2 - REVIEW

Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Finance Director Tori Melton <small>Digitally signed by Tori Melton Date: 2024.11.14 11:20:30 -05'00'</small>	Date
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Administrator Eric Dahl <small>Digitally signed by Eric Dahl Date: 2024.11.14 13:30:34 -05'00'</small>	Date

Section 3 - BOARD OF SUPERVISORS

Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Decision Date	Comments
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Capital Reserve Maintenance Fund Request

TAB T

MOTION: I move that the Board of Supervisors approve a Capital Reserve Maintenance Fund Request in the amount of **\$4,736.00** for the purpose(s) of: replacing and installing a hot water pump motor at FCHS.

Section 1 - REQUEST

Requesting Department/Agency FCPS	Dept/Agency Contact Don Stribling	Date of Request 11/13/2024
Phone (434) 589-5948	Fax (434) 589-5393	Fiscal Year FY25

Reserve Fund Purpose Category: **Ongoing facility or equipment maintenance requirements**

Description of Project/Repair	Qty	Unit Price	Total Price
Motor and Equipment for Hot water pump	1	\$4,736.00	\$4,736.00
			\$0.00
			\$0.00
			\$0.00

Total Request: **\$4,736.00**

Description and justification for proposed use.

There is a hot water pump moter that is not operational at FCHS.

Department/Agency Head Name Don Stribling	Signature Don Stribling <small>Digitally signed by Don Stribling DN: cn=Don Stribling, o=FCPS, ou=FCPS, email=dstribling@apps.fluco.org, c=US Date: 2018.08.21 13:12:45 -04'00'</small>	Date 11/13/2024
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Section 2 - REVIEW

Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Finance Director Tori Melton <small>Digitally signed by Tori Melton Date: 2024.11.14 11:07:40 -05'00'</small>	Date
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Administrator Eric Dahl <small>Digitally signed by Eric Dahl Date: 2024.11.14 13:31:08 -05'00'</small>	Date

Section 3 - BOARD OF SUPERVISORS

Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Decision Date	Comments
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Capital Reserve Maintenance Fund Request

TAB U

MOTION: I move that the Board of Supervisors approve a Capital Reserve Maintenance Fund Request in the amount of **\$8,000.00** for the purpose(s) of: replacing and installing speed bumps at FCHS.

Section 1 - REQUEST

Requesting Department/Agency FCPS	Dept/Agency Contact Don Stribling	Date of Request 11/13/2024
Phone (434) 589-5948	Fax (434) 589-5393	Fiscal Year FY25

Reserve Fund Purpose Category: **Unexpected facility repairs or replacements**

Description of Project/Repair	Qty	Unit Price	Total Price
Speed Bumps (FCHS)	8	\$1,000.00	\$8,000.00
			\$0.00
			\$0.00
			\$0.00

Total Request: **\$8,000.00**

Description and justification for proposed use.

The current speed bumps have become worn, dangerous, inoperable, and are causing damage to the pavement.

Department/Agency Head Name Don Stribling	Signature Don Stribling <small>Digitally signed by Don Stribling DN: cn=Don Stribling, c=FCPS, ou=FCPS, email=dstribling@apps.fluco.org, c=US Date: 2018.08.21 13:12:45 -04'00'</small>	Date 11/13/2024
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Section 2 - REVIEW

Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Finance Director Tori Melton <small>Digitally signed by Tori Melton Date: 2024.11.14 11:07:19 -05'00'</small>	Date
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Administrator Eric Dahl <small>Digitally signed by Eric Dahl Date: 2024.11.14 13:31:49 -05'00'</small>	Date

Section 3 - BOARD OF SUPERVISORS

Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Decision Date	Comments
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Capital Reserve Maintenance Fund Request

TAB V

MOTION: I move that the Board of Supervisors approve a Capital Reserve Maintenance Fund Request in the amount of \$20,500.00 for the purpose(s) of:
Inside Sewer Line Repairs at the Public Safety Building

Section 1 - REQUEST

Requesting Department/Agency Public Works PW25 - 005	Dept/Agency Contact Dale Critzer	Date of Request 09/27/2024
Phone (434) 591-1925	Fax (434) 591-1924	Fiscal Year FY25

Reserve Fund Purpose Category: **Unexpected facility repairs or replacements**

Description of Project/Repair	Qty	Unit Price	Total Price
Labor / Materials To Cut & Replace Sewer Line Below the Floor Level	1	\$18,000.00	\$18,000.00
Contingency For Unforeseen issues	1	\$2,500.00	\$2,500.00
			\$0.00
			\$0.00

Total Request: **\$20,500.00**

Description and justification for proposed use.

The Public Safety Building has on several occasions backed up into various areas . During a recent episode the back up caused significant damage requiring removal of drywall ,flooring , bacteria mitigation and safety testing . The cause of the issue stems from a sagging sewer line and an originally installed incorrect sewer line fitting . The repairs will require an extreme amount of work , cutting an area of the floor , remove the problem areas , install new pipe and fittings and fill trench with gravel and concrete .

Department/Agency Head Name Assistant Director of Public Works	Signature Dale Critzer <small>Digitally signed by Dale Critzer Date: 2024.09.27 15:19:20 -04'00'</small>	Date 09/27/2024
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Section 2 - REVIEW

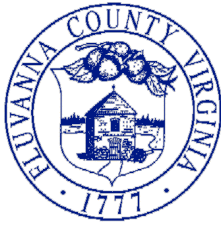
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Finance Director Tori Melton <small>Digitally signed by Tori Melton Date: 2024.11.14 10:09:56 -05'00'</small>	Date
Recommended? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	County Administrator Eric Dahl <small>Digitally signed by Eric Dahl Date: 2024.11.14 13:29:55 -05'00'</small>	Date

Section 3 - BOARD OF SUPERVISORS

Approved? <input type="checkbox"/> Yes <input type="checkbox"/> No	Decision Date	Comments
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**FLUVANNA COUNTY BOARD OF SUPERVISORS
MEETING PACKAGE ATTACHMENTS**

Incl?	Item
<input checked="" type="checkbox"/>	BOS Contingency Balance Report
<input checked="" type="checkbox"/>	Building Inspections Report
<input checked="" type="checkbox"/>	Capital Reserve Balances Memo
<input type="checkbox"/>	Fluvanna County Bank Balance and Investment Report
<input checked="" type="checkbox"/>	Unassigned Fund Balance Report
<input type="checkbox"/>	VDOT Monthly Report & 2020 Resurfacing List
<input type="checkbox"/>	ARPA Fund Balance Memo
<input checked="" type="checkbox"/>	The Board of Supervisors Work Plan



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

BOS2024-11-20 p.233/244
P.O. Box 540
Palmyra, VA 22963
(434) 591-1910
Fax (434) 591-1911
www.fluvannacounty.org

MEMORANDUM

Date: November 20, 2024
From: Theresa McAllister – Management Analyst
To: Board of Supervisors
Subject: FY25 BOS Contingency Balance

The FY25 BOS Contingency line balance is as follows:

Beginning Original Budget:	\$248,824
Less: Position Upgrades for COR's Office – 07.03.24	-\$19,721
Less: TJPDC Spring Regional Housing Summit – 07.03.24	-\$2,500
Less: BOS Leadership Retreat – 07.03.24	-\$4,500
Less: Position Upgrade from EMS Supervisor to Director – 07.03.24	-\$22,670
Less: Command Structure in Emergency Services – 07.03.24	-\$22,025
Reassessment Budget Transfer – 08.07.24	\$49,284.47
Less: Dewberry Engr Svc for Comms Twr Inspect and Mapping – 09.04.24	-\$5,300
Less: Prelim Engg Rpt PG & Comm Blvd Wtr & Sewer Service – 10.16.24	-\$31,555
Less: Position Upgrades for Treasurer Office – 11.06.24	-\$13,076
Available:	\$176,761.47

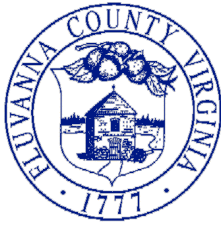
BUILDING INSPECTIONS MONTHLY REPORT

County of Fluvanna

Building Official:	Period:
Andrew Wills	Oct-2024

Category	Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL
BUILDING PERMITS ISSUED														
NEW - Single Family Detached (incl. Trades permits & SWMH)	2020	12	13	23	14	8	19	19	17	16	20	22	11	194
	2021	15	9	19	20	16	22	15	11	8	22	13	8	178
	2022	17	11	20	11	18	32	10	9	11	12	9	4	164
	2023	5	6	6	12	12	6	10	5	7	8	9	7	93
	2024	9	7	13	7	8	12	16	8	11	12	0	0	103
NEW - Single Family Attached (Town Homes)	2020	0	0	0	0	1	6	0	0	6	0	0	0	13
	2021	0	0	0	0	0	0	0	0	6	0	0	0	6
	2022	0	0	0	0	0	0	0	0	0	0	0	0	0
	2023	0	8	0	0	0	0	0	0	0	0	0	7	15
	2024	0	0	0	0	0	0	0	0	6	0	6	0	12
Multi Family (Apartment, Duplex)	2020	0	0	0	0	0	0	0	0	1	0	0	0	1
	2021	0	0	0	0	0	0	0	0	1	0	0	0	0
	2022	0	0	0	0	0	0	0	5	0	0	0	0	5
	2023	1	0	0	0	0	0	0	0	0	0	0	0	1
	2024	0	0	0	0	0	0	0	0	0	0	0	0	0
Additions and Alterations	2020	37	38	23	30	30	22	27	20	30	34	35	23	349
	2021	28	14	43	39	31	40	30	29	26	30	35	33	378
	2022	33	48	60	45	47	50	51	63	45	63	51	44	600
	2023	52	34	51	34	36	28	36	35	45	39	43	37	470
	2024	39	33	45	31	43	29	39	27	38	32	0	0	356
* Trade permits count not in .														
Accessory Buildings	2020	2	4	4	4	5	5	1	7	8	3	5	1	49
	2021	1	3	3	6	3	6	1	3	2	4	4	2	38
	2022	3	4	13	6	5	2	5	4	5	3	0	2	52
	2023	7	2	7	5	6	2	5	8	4	7	5	6	64
	2024	1	6	5	3	9	3	5	2	8	1	0	0	43
Swimming Pools	2020	0	1	3	3	1	2	3	1	1	0	0	0	15
	2021	0	0	7	1	5	2	3	4	1	0	1	2	26
	2022	0	2	4	4	1	0	3	3	0	0	0	0	17
	2023	1	0	6	1	2	4	0	0	0	2	0	0	16
	2024	0	0	1	3	3	0	0	0	0	0	0	0	7
Commercial/ Industrial Build/Cell Towers	2020	0	0	1	0	1	0	0	3	0	0	2	0	7
	2021	1	0	1	0	0	0	1	0	0	0	2	0	5
	2022	0	0	0	0	0	2	3	2	0	2	1	0	10
	2023	1	1	0	1	0	0	0	0	0	0	0	0	3
	2024	0	0	0	0	0	1	0	1	0	0	0	0	2
TOTAL BUILDING PERMITS	2020	51	56	54	51	46	54	50	48	63	57	54	40	624
	2021	51	26	73	66	55	70	50	47	37	56	55	45	631
	2022	54	65	97	66	71	86	72	77	61	80	61	50	840
	2023	67	51	64	52	51	40	52	48	56	56	57	57	651
	2024	49	46	64	44	63	45	60	44	57	49	0	0	521
* Trade permits count not included as in previous years														
BUILDING VALUES FOR PERMITS ISSUED														
TOTAL BUILDING VALUES	2020	\$2,292,161	\$3,206,055	\$7,238,708	\$2,997,448	\$2,245,411	\$4,389,903	\$3,644,002	\$5,555,492	\$5,271,906	\$4,201,357	\$3,513,834	\$2,954,193	\$ 47,506,500
	2021	\$5,397,000	\$1,687,484	\$2,506,869	\$4,952,702	\$3,473,256	\$5,766,891	\$2,885,146	\$2,506,053	\$2,046,134	\$3,637,390	\$4,633,868	\$2,712,396	\$ 41,734,789
	2022	\$5,073,054	\$3,017,155	\$5,012,175	\$2,937,240	\$5,694,955	\$9,371,750	\$11,374,772	\$17,974,068	\$2,743,309	\$4,363,026	\$6,842,941	\$1,046,000	\$ 75,410,524
	2023	\$3,929,572	\$4,916,308	\$3,029,674	\$3,087,131	\$6,370,476	\$3,088,398	\$4,234,315	\$3,224,163	\$2,474,897	\$2,332,220	\$3,542,065	\$4,921,239	\$ 45,140,458
	2024	\$4,126,791	\$1,874,058	\$5,852,079	\$2,471,063	\$3,280,586	\$3,890,154	\$4,188,990	\$3,864,595	\$5,369,898	\$7,528,119	\$0	\$0	\$ 42,443,333

Category	Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	TOTAL
LAND DISTURBING PERMITS ISSUED														
LAND DISTURBING PERMITS	2020	11	10	26	13	8	24	13	19	20	19	13	16	192
	2021	22	10	18	20	18	22	16	11	4	23	13	8	185
	2022	16	13	19	11	18	34	11	10	8	13	8	3	164
	2023	5	14	9	15	10	7	10	5	10	8	8	14	115
	2024	8	6	15	8	9	11	16	12	12	16	0	0	113
INSPECTIONS COMPLETED														
TOTAL INSPECTIONS	2020	213	197	302	369	371	304	434	368	439	464	407	412	4,280
	2021	430	349	465	431	402	426	333	355	419	453	422	356	4,841
	2022	304	414	551	449	439	486	594	589	523	400	300	351	5,400
	2023	350	298	321	308	288	285	261	294	287	375	297	300	3,664
	2024	272	200	226	226	256	266	308	435	352	366	0	0	2,907
FEES COLLECTED														
Building Permits	2020	\$12,863	\$15,468	\$18,152	\$16,803	\$13,147	\$28,068	\$23,193	\$28,887	\$24,237	\$19,359	\$15,359	\$15,871	\$ 231,407
	2021	\$18,733	\$15,400	\$15,654	\$21,333	\$16,184	\$23,031	\$27,000	\$11,923	\$9,144	\$20,620	\$15,563	\$9,211	\$ 203,796
	2022	\$21,100	\$19,347	\$23,488	\$15,404	\$19,739	\$23,621	\$18,713	\$54,782	\$11,348	\$34,994	\$17,567	\$6,021	\$ 266,124
	2023	\$11,925	\$20,870	\$11,256	\$15,385	\$21,848	\$9,751	\$9,429	\$8,207	\$10,590	\$11,603	\$11,462	\$14,778	\$ 157,104
	2024	\$21,425	\$8,680	\$19,958	\$9,063	\$8,812	\$17,936	\$21,896	\$18,824	\$19,968	\$27,219	\$0	\$0	\$ 173,781
Land Disturbing Permits	2020	\$1,375	\$1,250	\$6,365	\$1,625	\$1,000	\$3,000	\$2,125	\$8,369	\$2,500	\$2,375	\$4,294	\$1,875	\$ 36,153
	2021	\$5,678	\$1,250	\$14,463	\$2,500	\$2,250	\$2,750	\$13,581	\$2,824	\$500	\$4,848	\$1,625	\$1,000	\$ 53,268
	2022	\$2,000	\$2,050	\$9,963	\$1,375	\$2,250	\$10,014	\$1,375	\$2,175	\$27,725	\$3,649	\$2,175	\$375	\$ 65,126
	2023	\$625	\$1,875	\$1,125	\$2,300	\$1,625	\$5,000	\$2,408	\$625	\$4,975	\$1,000	\$1,000	\$1,750	\$ 24,308
	2024	\$1,000	\$750	\$9,584	\$1,000	\$3,713	\$1,375	\$2,000	\$1,500	\$2,375	\$2,000	\$0	\$0	\$ 25,297
Zoning Fees collected by Building Dept starting February 2024	2020	\$1,650	\$1,600	\$3,000	\$1,700	\$15,550	\$3,050	\$2,350	\$2,300	\$2,900	\$2,850	\$1,600	\$1,700	\$ 26,250
	2021	\$2,150	\$1,150	\$3,650	\$2,950	\$2,650	\$3,400	\$2,450	\$1,850	\$1,300	\$2,900	\$1,900	\$1,150	\$ 27,500
	2022	\$1,900	\$1,400	\$3,900	\$1,650	\$2,300	\$3,900	\$1,800	\$1,500	\$1,500	\$2,000	\$1,450	\$750	\$ 24,050
	2022	\$1,350	\$1,950	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$ 3,300
	2024	\$0	\$800	\$2,250	\$1,150	\$1,800	\$2,250	\$2,250	\$1,650	\$1,750	\$2,300	\$0	\$0	\$ 16,200
TOTAL FEES	2020	\$15,888	\$18,318	\$27,517	\$20,128	\$15,697	\$34,118	\$27,668	\$39,556	\$29,637	\$24,584	\$24,584	\$19,446	\$ 293,810
	2021	\$25,000	\$22,797	\$37,351	\$18,429	\$24,289	\$37,535	\$21,888	\$58,457	\$40,573	\$40,643	\$24,584	\$7,146	\$ 290,061
	2022	\$25,001	\$22,797	\$37,351	\$18,429	\$24,289	\$37,535	\$21,888	\$58,457	\$40,573	\$40,643	\$24,584	\$7,146	\$ 335,300
	2023	\$13,900	\$24,395	\$12,381	\$17,685	\$23,473	\$14,751	\$11,837	\$8,834	\$15,565	\$12,603	\$12,462	\$16,528	\$ 184,714
	2024	\$22,425	\$10,230	\$31,792	\$11,213	\$14,325	\$21,561	\$26,146	\$21,974	\$24,093	\$31,519	\$0	\$0	\$ 215,278



COUNTY OF FLUVANNA

"Responsive & Responsible Government"

BOS2024-11-20 p.237/244
P.O. Box 540
Palmyra, VA 22963
(434) 591-1910
Fax (434) 591-1911
www.fluvannacounty.org

MEMORANDUM

Date: November 20, 2024
From: Theresa McAllister – Management Analyst
To: Board of Supervisors
Subject: FY25 Capital Reserve Balances

The FY25 Capital Reserve account balances are as follows:

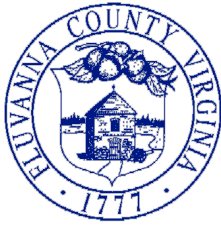
County Capital Reserve:

FY24 Carryover	\$497,849.16
FY25 Budget Allocation:	\$250,000
Less: Public Safety Building Replace HVAC Unit #4 – 09.04.24	-\$19,318.80
Less: Library Heat Pump Unit #4 Replacement – 10.02.24	-\$7,000
Less: FUFC Bay #5 Roll Up Door Repair – 10.02.24	-\$9,055
Less: Public Safety Building Sewer Back-Up – 10.02.24	-\$10,175
FY25 Available:	\$702,300.36

Schools Capital Reserve:

FY24 Carryover	\$237,045.55
FY25 Budget Allocation:	\$200,000
Less: FMS HVAC Unit Replacement & Installation – 07.03.24	-\$39,566
Less: FMS Bat Elimination – 08.07.24	-\$30,000
Less: School's Asphalt Patching (FCHS, CB, & CE) – 08.07.24	-\$9,759
Less: FCHS Driver on Chiller Circulation Pump – 08.21.24	-\$9,850
Less: CE Failed Condenser Fan's Chillers 1 & 2 – 10.02.24	-\$5,985
Less: FMS Remove Bat Colony & Seal Roofline – 10.02.24	-\$61,129
Less: Central Chiller Condenser Fan Motors – 11.06.24	-\$13,500

Add: Closed CRM Projects – 11.10.24	\$4,400
FY25 Available:	\$271,656.55



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MEMORANDUM

Date: November 20, 2024
From: Theresa McAllister– Management Analyst
To: Board of Supervisors
Subject: Unassigned Fund Balance

*FY24 Year End (Unaudited) Unassigned Fund Balance:	\$6,709,862.25
Less: FCMS Track Resurfacing/Milling CIP – 08.06.24	-\$221,000
Less: Dev Agrmt btw Fluvanna, Zion 3 Notch, & Econ Dev Auth – 08.07.24	-\$250,000
Current (Unaudited) Unassigned Fund Balance:	\$6,238,862.25

*Audited FY24 Year End Unassigned Fund Balance will be available upon Completion of the FY24 Annual Comprehensive Financial Report

Completed	#	BOS 2024 Work Plan Adopted Oct 2, 2024	Due	Progress Notes (Most recent appear in red.) Updated: 11/15/2024
A	Infrastructure: Develop and maintain adequate utilities and facilities to sustain quality of life and, support appropriate new development and provide for efficient County operations			
	1	Develop sewer infrastructure at Zions Crossroads and Fork Union		
	1a	A preliminary engineering report (PER) is being developed for Zions Crossroads and will be completed by July 1, 2025	1-Jul-25	
	1b	Re-engage w/ Fork Union Military Academy (FUMA) regarding a partnership, or the County taking over the wastewater treatment plant – County Administrator to initiate discussions with FUMA leadership and provide a status report.	1-Jan-25	
	2	Develop water and sewer infrastructure in Pleasant Grove Park		
	2a	PER completion.	1-Jul-25	
	2b	Include funding for master plan development in the FY 2026 Budget with completion.	31-Dec-26	Oct 2024 - Submitted for FY26 CIP
	3	Provide for public water in Fork Union		
	3a	PER to be completed by December 31, 2024	31-Dec-24	
	3b	Develop an implementation plan by July 1, 2025	1-Jul-25	
	3c	Include the project or project components in the FY 2026 Budget and CIP.	FY26	Oct 2024 - Submitted for FY26 CIP
	4	Extension of water service west on Route 250 from Zions Crossroads – go/no-go decision by December 31, 2024.	31-Dec-24	
	5	Construct a new County Administration and Social Services Building and renovate the existing County Administration and Social Services Building for department expansion and consolidation.		

Completed	#	BOS 2024 Work Plan Adopted Oct 2, 2024	Due	Progress Notes (Most recent appear in red.) Updated: 11/15/2024
		5a Issue RFP for design and construction	1-Oct-24	Post for 30 days 10/10/2024 - RFP Issued 11/08/2024 - RFP closed. Multiple bids received.
		5b Select an architect by December 31, 2024.	18-Dec-24	Present for approval at second mtg in December 2024.
		5c Include the project in the FY 2026 CIP.	3-Sep-24	Oct 2024 - Submitted for FY26 CIP
		5d Complete space needs analysis and preliminary planning and develop and adopt a financing plan.	1-Nov-25	
		5e Occupancy planned for July 2028.	30-Jul-28	
B Government Performance: Continually work to improve efficiency, effectiveness, and equity in service delivery and project management with an appropriate organizational structure and through the adoption of appropriate policies, procedures, and practices; adapt and implement best practices.				
	1	Prepare an enhanced Capital Improvements Plan for the current fiscal year plus 5 for the Fiscal Year 2027 Budget:		
		1a include project descriptions, costs, sources of funding, potential operating costs.	FY27	
		1b identify other projects outside of the six-year window or that, while desirable, are of a lower priority for funding.	FY27	
	2	Develop a budget projection tool looking at least five years out (with a goal of a ten-year projection).	1-Dec-25	
	3	Develop or procure an Asset Management Plan for the maintenance and replacement of capital assets for the Fiscal Year 2028 Budget and CIP.	FY28	Sept 2024: Munis module already purchased, not currently implemented
C Citizen Engagement: Actively engage citizens through outreach and effective two-way communications.				
	1	Complete implementation of the Citizens Self-Service Portal.	31-Dec-25	
	2	Upgrade the County website to include important information and access to documents	1-Jul-26	

Completed	#	BOS 2024 Work Plan Adopted Oct 2, 2024	Due	Progress Notes (Most recent appear in red.) Updated: 11/15/2024
	3	Develop a Communications Plan for citizen engagement		
	3a	identify audiences, potential platforms, information priorities, communications mechanisms, and timing.	1-Jul-25	
	3b	Immediate action to conduct citizen outreach in May and November of 2025, possibly through tax bills, and to include information such as on the budget and County accomplishments.	05/2025 & 11/2025	
D	Economic Development: Support business development and expansion that increases the tax base, provides gainful employment, and enhances quality of life. Agriculture and tourism are important components.			
	1	Provide an annual report on implementation of the Economic Development Strategic Plan and other accomplishments.	1-Mar-25	
	2	Provide an annual report on implementation of the Tourism Strategic Plan and other accomplishments.	1-Mar-25	
E	Rural Preservation: Foster rural open space, protect the natural beauty of the County, and support agricultural production through appropriate land use planning and regulation.			
	1	Provide a report on the number of approved cluster subdivisions, including the number of undeveloped lots, and the status of proposed cluster subdivisions. Identify options for management.	1-Nov-24	09/18/2024 BOS Mtg - Provided report and discussed rural cluster subdivisions; Board remanded to PC for further research and options 10/08/2024 PC Mtg - Planning Commission adopted a resolution authorizing and advertisement for Zoning Text Amendment to eliminate rural cluster subdivisions in A1 Zoning District.
	2	Provide a report on undeveloped parcels in the County in size categories such as greater than 1000 acres, 500-1000 acres, 200-500 acres, etc.	1-Nov-24	Planned for the Nov 6, 2024 BOS Mtg. 11/06/2024 - Presentation/map provided. Parcels with more than 50 acres and a single dwelling will be added to the map and presented at a future BOS meeting.
F	Growth Management: Act to accommodate responsible growth that enhances quality of life, preserves rural character, and provides economic opportunities.			
	1	Revise and update the Comprehensive Plan – provide a plan for the process of updating the plan by January 1, 2025.	1-Jan-25	10/08/2024 PC Mtg - Provided timeline and work plan to Planning Commission; will present to BOS on 11/06/2024

Completed	#	BOS 2024 Work Plan Adopted Oct 2, 2024	Due	Progress Notes (Most recent appear in red.) Updated: 11/15/2024
G Community Development and Enrichment: Support infrastructure development, revitalization, streetscape improvements, and amenities to promote village centers of housing, commerce, and cultural activities in areas such as Columbia, Fork Union, Palmyra, and Zions Crossroads.				
	1	Complete Phase 1 of the Palmyra Streetscape Improvements by December 31, 2025.	31-Dec-25	
	1a	Include future phases in the FY 2026 CIP.	3-Sep-24	Oct 2024 - Submitted for FY26 CIP
	2	Provide a preliminary plan to complete Fork Union streetscape improvements – by December 31, 2024.	31-Dec-24	
	3	Explore planning grants opportunities for the development of a Columbia area plan.	31-Dec-25	
	4	Incorporate the use of the \$500,000 grant from Dominion Energy as a funding source for selected projects in the Fiscal Year 2026 CIP.	FY26	

H Public Safety: Protect life and property, plan for emergency management, mitigate risks, and respond to individual and community-wide crises.				
	1	Present the incentives plan to promote greater volunteer participation developed by the Fire and Rescue Association (FRA) by March 31, 2025.	31-Mar-25	
	2	Include funding for a County Fire Chief in the FY 2026 Budget.	FY26	