



Guidance for Land Disturbing Activities

Tools and Procedures for
Implementation of the City's Erosion & Sediment
Control and Stormwater Management Programs

City of Hopewell
Virginia



May 2016
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Disclaimer: This document is for guidance purposes only and does not
supersede City Code or regulations cited herein.

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Application for a Land Disturbing Permit – Single Family Residence with an Agreement in Lieu of an ESC Plan (LDA Form 02)

Land Disturbing Permit, ESC Plan, and VSMP Permit Fee Form (LDA Form 03)

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ESC Plan Preparer/Reviewer Checklist (LDA-04)

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SWPPP Template for Single Family Detached Residential Construction (LDA Form 12)

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Definitions

Acronyms

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1.0 INTRODUCTION

The City of Hopewell (City) implements a consolidated Erosion and Sediment Control (ESC) & Stormwater Management (SWM) Program in accordance with the City Code. The City Code incorporates, by reference, the following laws and attendant regulations as the enabling authority and the technical and administrative basis for the program:

- Virginia ESC Law (§62.1-44.15:51 et. seq.) and Virginia ESC Regulations (9VAC25-840);
- Virginia SWM Law (§62.1-44. 15:24 et. seq.) and Virginia SWM Program (VSMP) Regulations (9VAC25-870);
- VPDES General Permit for Discharges of Stormwater from Construction Activities (9VAC25-880; VAR10);
- ESC and SWM Certification Regulations (9VAC25-850); and the
- Chesapeake Bay Preservation Act (§62.1-44.15:67 et. seq.) and Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC25-830).

The relevant City codes can be found on the Stormwater Division home page: <http://hopewellva.gov/storm-water> .

This Guide has been Developed to assist applicants acquire a permit for a Regulated Land disturbing Activity (LDA) project through plan design and approval, construction, and long term inspections and maintenance of stormwater Best Management Practices to ensure consistency with City requirements referenced above. A Process Diagram is provided in Appendix A that illustrates the process from the application for a permit for a land disturbance activity through the completion of the activity.

The Guide includes the following sections:

Applicability – Determine if the proposed activity is a regulated LDA subject to the City’s ESC and SWM Program.;

Permit Application – Procedures for submittal of a LDA Permit Application and required ESC and SWM plans;

Construction – Procedures for conducting inspections and maintaining compliance with the approved plans and City code; and

Post-Construction and Reporting – Responsibilities and procedures to ensure long-term care and maintenance of stormwater management facilities.

Administration and enforcement of the City’s Programs will be performed by City personnel as described in this guidance. The City shall ensure responsible staff and its representatives obtain the necessary program implementation certifications as required by the Virginia Department of Environmental Quality (VDEQ).

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2.0 APPLICABILITY

The entire City is designated a Chesapeake Bay Preservation Area. Therefore, the ESC and SWM ordinances apply to all regulated LDAs conducted within the City.

2.1 Regulated Land Disturbing Activities

Regulated Land Disturbing Activities (LDA) are subject to applicable City ordinances requiring an approved ESC plan, SWM plan, or both, and permit(s) prior to the commencement of the activity. A regulated LDA is defined as follows:

A **land-disturbing activity** (LDA) 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 construction activity such as the clearing, grading, excavating, or filling of land. (§ 62.1-44.15:24. Code of Virginia).

A **regulated land disturbing activity** is that which disturbs 2,500 ft² or greater. (§ 62.1-44.15:34. Code of Virginia).

The following activities **are not required to comply** with the requirements of the City's Erosion & Sediment Control or Stormwater Management Ordinances 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 45.1 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 is reforested in accordance with the Code of Virginia (§ 10.1-1100 et seq.) or is converted to bona fide agricultural or improved pasture use (§ 10.1-1163.B);
7. Installation of fence and sign posts or telephone and electric poles and other kinds of posts

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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 this article 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, the 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. Allowable discharges to a sanitary sewer as described in Chapter 31 of the City Code: Sewers and Sewage Disposal.

The following activities are **required to comply** with the City's Erosion & Sediment Control ordinance but **are not required to comply** with the City's stormwater 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.

2.2 Regulated Land Disturbing Activities Permit Application Requirements

Table 1 and **Table 2** outline the different categories of regulated land disturbing activities and the general requirements.

2.2.1 Site Plans

Site plans provide staff with an opportunity to review the project's compliance with applicable subdivision and zoning ordinance requirements, as well as the location and adequacy of provisions for permanent drainage and temporary construction related erosion and sediment control.

Site plans are required when a project includes a building permit or a land area greater than 1,000 square feet. The required content of a site plan is provided on the Site Plan Application and can be

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downloaded from the Planning Department website.

Table 1. RESIDENTIAL (SINGLE FAMILY DETACHED) CONSTRUCTION	
LDA 1	Lot within subdivision (Common Plan of Development) <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit* <input type="checkbox"/> Agreement in lieu of an ESC and SWM Plan <input type="checkbox"/> VPDES CGP ¹ Coverage (\$290)
LDA 2	Lot ≥ 1,000 ft² and < 2,500 ft² land disturbance <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit* <input type="checkbox"/> Agreement in lieu of ESC and SWM Plan
LDA 3	Lot ≥ 2,500 ft² and < 1 acre land disturbance <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit* <input type="checkbox"/> Agreement in lieu of ESC and SWM Plan
LDA 4	Lot ≥ 1acre and < 5 acres land disturbance <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit* <input type="checkbox"/> ESC Plan * <input type="checkbox"/> Agreement in lieu of SWM Plan <input type="checkbox"/> VPDES CGP ¹ Coverage (\$290)
LDA 5	Lot ≥ 5 acres and < 10 acres land disturbance <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit <input type="checkbox"/> ESC Plan <input type="checkbox"/> SWM Plan <input type="checkbox"/> VPDES CGP ¹ Coverage (\$3,400)
*Refer to fee schedule for Permit Fee amounts. 1. Virginia Pollutant Discharge Elimination System Construction General Permit	

2.2.2 Agreement in Lieu of an ESC Plan for a Single-Family Residence

An agreement in lieu (AIL) of a plan is a contract between the City and the owner or permittee and is applicable to single-family detached residential construction only. The agreement specifies methods to comply with the ESC and SWM Programs that shall be implemented for the construction of a single-family residence and may be executed by the City in lieu of an ESC plan (AIL-ESC).

For a single-family detached residential construction, an AIL-ESC is required when the LDA:

- Is within a larger subdivision or *Common Plan of Development or sale* developed by another party and the total land disturbance occurring within the overall development

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is equal to or greater than one acre; or

- Is equal to or greater than 2,500 square feet.
- **An AIL-ESC is not applicable for single family detached residential construction when the LDA is equal or greater than 1 acre.** A site specific ESC plan is required.

Single-family residential construction projects that qualify for an AIL-ESC should utilize the site plan referenced in the previous section, typically an 8-½ x 11” sheet, to communicate the proposed erosion control measures and stormwater drainage features as required by the Agreement. The *Application for a Land Disturbing Permit* and the *Application for a Land Disturbing Permit for Single Family Residential Construction with an Agreement in Lieu of a Plan* are provided in **Appendix B**.

For a single-family detached residential construction meeting the conditions above, an AIL-ESC shall be submitted to the City’s Stormwater Program Manager or designee for approval prior to the commencement of the LDA.

2.2.3 Agreement in Lieu of a Stormwater Management Plan

When the land disturbance associated with a single-family detached residential construction is 1 acre or greater, but less than 5 acres, the AIL-SWM includes all the same information as the AIL-ESC, with the addition of any on-lot stormwater management Best Management Practices (BMPs) required to achieve compliance with the City Stormwater ordinance. The AIL-SWM shall be submitted to the City’s Stormwater Program Manager or designee for approval prior to the commencement of the LDA.

TABLE 2 COMMERCIAL/MULTI-FAMILY RESIDENTIAL/INDUSTRIAL	
CLDA 1	<p>Parcel within subdivision (Common Plan of Development)</p> <ul style="list-style-type: none"> <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit* <input type="checkbox"/> ESC Plan* <input type="checkbox"/> SWM Plan <input type="checkbox"/> VPDES CGP Coverage*
CLDA 2	<p>Parcel ≥ 2,500 ft² and <1 acre land disturbance</p> <ul style="list-style-type: none"> <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit* <input type="checkbox"/> ESC Plan* <input type="checkbox"/> SWM Plan
CLDA 3	<p>Parcel ≥ 1 acre land disturbance</p> <ul style="list-style-type: none"> <input type="checkbox"/> Site Plan <input type="checkbox"/> Land Disturbing Permit* <input type="checkbox"/> ESC Plan* <input type="checkbox"/> SWM Plan <input type="checkbox"/> VPDES CGP*
*Refer to fee schedule for Permit Fee amounts.	

2.2.4 Virginia Pollutant Discharge Elimination System Construction General Permit (VPDES CGP) Coverage

The General Virginia Pollutant Discharge Elimination System Permit for Discharges of Stormwater from Construction Activities, VAR10 (VPDES Construction General Permit or VPDES CGP) is a Federal Clean Water Act permit issued by the Commonwealth of Virginia. The City of Hopewell, as an authorized Virginia Stormwater Management Program (VSMP) Authority, reviews and approves ESC and SWM Plans, confirms the plan approval in accordance with the General Permit requirements, collects the appropriate fee, and then notifies the Virginia Department of Environmental Quality (VDEQ) that the regulated LDA qualifies for coverage. VDEQ then issues the applicant a letter confirming permit coverage.

VPDES CGP coverage is required for all land disturbing activities equal to or greater than 1 acre and all regulated land disturbing activity within a common plan of development or sale where the larger plan of development is (or was) equal to or greater than one acre, including individual lots within a subdivision.

Site Plan approval, Land Disturbance Permit, and appropriate fee are required prior to permit coverage.

➤ **Permit coverage is authorized only after:**

- ✓ receipt of a completed Fee Form;
- ✓ Permit Registration Statement; and
- ✓ Confirmation of permit coverage from Virginia Department of Environmental Quality

VDEQ also extends permit coverage to qualified single family detached residential construction (less than 5 acres of land disturbance) through the acceptance of the AIL-ESC. Therefore:

➤ **Permit coverage for single-family detached residential construction less than one acre of disturbance is authorized only after:**

- ✓ Receipt of the approved AIL-ESC.

Table 1 and **Table 2** indicate the regulated land disturbing activities that require VPDES CGP coverage.

Contractors and builders should be aware that while permit coverage is automatically granted with the AIL-ESC, you are still required to maintain compliance with all the applicable provisions of the VPDES CGP. Refer to Section 3.5 for additional information of the requirements of the VPDES CGP.

3.0 APPLICATION AND APPROVAL PROCESS

This Section discusses the responsibilities of the City and the applicant prior to commencement of land disturbance. No land disturbing activity shall commence without an approved plan (or an AIL), a Land Disturbing Permit, and where applicable, a letter from VDEQ authorizing coverage under the VPDES CGP.

3.1 General Submission Information and Timelines

The general requirements for acting on applications for plan approval and/or land disturbing permits is established by the Code of Virginia (§ 62.1-44.15:34) and City ordinance. Staff will strive to reduce the maximum allowable time to act on permit applications and plan submittals. For single family detached residential construction applicants (outlined in Table 1 as LD1, LD2, & LD3 requiring a Land Disturbing Permit with an AIL-ESC), staff is committed to responding in a timely manner commensurate with the complexity of the application. It should be noted that other departments may require concurrent reviews that address more complex issues requiring a longer total review process prior to issuing a land disturbing permit.

The following represents the allowed review response time in accordance with state code and the City ordinance:

Initial submittal

- ✓ Determination of completeness of any application **within 15 days after receipt.**

Written notification that the application is incomplete will be provided to the applicant within 15 days after receipt.

- ✓ Approval or denial of complete application **within 60 days after determination of completeness or receipt.**

Staff will either approve the plan and application, or provide written notification of denial to the applicant accompanied by the rationale for denial within 60 days after determination of completeness. If no determination of completeness is communicated to the applicant, then notification of approval or denial will be within 60 days after receipt.

Re-submittal of previously disapproved application

- ✓ Determination of completeness of resubmittals **within 15 days after receipt.**

Written notification that the resubmittal is incomplete will be provided to the applicant within 15 days after receipt.

- ✓ Approval or denial of complete resubmittal **within 45 days after determination of completeness or receipt.**

Staff will either approve the resubmittal or provide written notification of denial to the applicant accompanied by the rationale for denial within 45 days after determination of completeness. If no determination of completeness is communicated to the applicant, then notification of approval or denial will be within 60 days after receipt.

The determination of completeness is based on the required components of an ESC and SWM plan as provided in the Checklist in **Appendix C.**

3.2 Application for a Land Disturbing Permit and a Land Disturbing Permit with an Agreement in Lieu of an Erosion Control Plan

The City's *Application for a Land Disturbing Permit* is provided in **Appendix B**.

The City's *Application for Land Disturbing Permit with an Agreement in Lieu of an ESC Plan* for single family construction is provided in **Appendix B**.

3.3 Erosion & Sediment Control Plan Review & Approval

The ESC plan will be reviewed for consistency with the technical criteria as referenced in the Virginia Erosion & Sediment Control Handbook (VESCH) by an individual certified in accordance with the ESC and SWM Certification Regulations (9VAC25-850).

3.3.1 ESC Technical Criteria

The ESC Plan shall be consistent with the requirements of the Virginia ESC Regulations (9VAC25-840), the latest edition of the VESCH and specifically address each applicable minimum standards described in 9VAC25-840-40.

3.3.2 ESC Submittal

The following items shall be submitted by the Applicant for review when land disturbance activity is subject to the ESC Program. Each item shall be provided as hardcopy with the **final approved plan** set provided electronically in pdf format.

- Application for a Land Disturbing Permit – This application shall be completed and provided with all submittals. A copy of the form is provided in **Appendix B**.
- Completed ESC Plan Checklist – The ESC Plan Checklist in **Appendix C** is provided to assist the ESC Plan preparer and reviewer with ensuring compliance to the technical criteria. Each applicable item on the checklist shall be addressed in the ESC Plan or ESC Narrative. Written reference on the checklist as to the location (plans or narrative) where the item has been addressed is requested in order to assist with plan development and review.
- ESC Plan – The ESC plan, narrative, and any supporting calculations shall be signed and sealed by a licensed professional and demonstrate compliance with the required ESC technical criteria.

3.3.3 ESC Plan Variances

An Applicant may request a variance from the ESC technical criteria. A variance request shall be provided in writing and may be considered prior to plan approval or during construction under the following conditions:

- The applicant requests, in writing, a variance with explanation of the reasons for requesting the variance. Reasons must be specific to restrictive site conditions and the variance shall be the minimum necessary to mitigate for the site restriction.
- The request shall include alternative measures to address potential downstream transport of sediment that could result from the granting of the variance.

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- The request shall describe how the alternative measure(s) meets the intent of the minimum standard (9VAC25-840-40) for which the variance is sought.
- A variance will not be granted in any case where the granting of the variance could cause damage to downstream property. It is the responsibility of the applicant to demonstrate in the request that downstream properties will be protected from erosion, sedimentation and flooding.
- During construction, the person responsible for implementing the approved plan may request a variance in writing. A response in writing, either approving or disapproving the request, will be provided. **If the request is not approved within 10 days of receipt of the request, the request shall be considered to be disapproved.**
- Approval or disapproval of a variance to the VESCH standards and specifications for an ESC measure (e.g. proprietary inlet protection device) will consider consistency with the intent of the standard and specification for the specific type of measure described in Chapter 3 of the VESCH.
- Specific variances which are approved shall be documented on the ESC Plan.

The Plan Reviewer and ESC Inspector reserve the right to disallow the use of proprietary ESC measures based on findings that demonstrate poor performance related to sedimentation control or maintenance. Sufficient detail shall be provided on the ESC Plan for allowed proprietary measures, including any necessary design computations, installation instructions, and inspection and maintenance guidance. Installation and maintenance shall be per the manufacturer's recommendations.

3.4 Stormwater Management Plan Review & Approval

Land disturbance activity subject to the SWM Program requires an approved SWM Plan. The ESC plan will be reviewed for consistency with the technical criteria as referenced in the Virginia SWM Handbook by an individual certified in accordance with the ESC and SWM Certification Regulations (9VAC25-850).

3.4.1 SWM Technical Criteria

The SWM Plan shall be consistent with Part II A and Part II B of the VSMP Regulations, unless grandfathered per conditions described in 9VAC25-870-48 and therefore subject to Part II C of the VSMP Regulations. A project is not considered grandfathered unless explicitly approved in writing from the Program Manager or DEQ in response to a request for "grandfathered status" consistent with 9VAC25- 870-48 prior to plan submittal.

Design standards and specifications shall be consistent with the Virginia Stormwater BMP Clearinghouse Website, the latest edition of the Virginia Stormwater Management Handbook, and the Supplemental BMP Selection Criteria provided herein.

3.4.2 Supplemental BMP Selection Criteria

Successful performance of SWM practices depend on an effective long-term maintenance program. Designers are encouraged to consider maintenance concerns such as accessibility, frequency of maintenance, the required maintenance equipment, and costs of maintenance when selecting BMPs. Maintenance requirements for SWM practices shall be clearly specified on the SWM Plan.

3.4.3 SWM Submittals

The following items shall be submitted by the Applicant for review when land disturbance activity is subject to the SWM Program. Each item shall be provided as hardcopy (# of copies as shown) and electronically in pdf format.

- **Application for Land Disturbing Activity** – This form shall be provided with all submittals and include the Applicant’s contact information and general information about the land disturbance activity. A copy of the form is provided in **Appendix B**.
- **Completed SWM Plan Checklist** – The SWM Plan Checklist in **Appendix C** is provided to assist the SWM Plan preparer and reviewer with ensuring compliance to the technical criteria. Each applicable item on the checklist shall be addressed in the SWM Plan or SWM Narrative and the checklist certified by the licensed professional.
- **SWM Plan** – The SWM plan, narrative, and supporting calculations shall be signed and sealed by a licensed professional and provide all of the information necessary to demonstrate compliance to the technical criteria of the VSMP regulations.
- **Completed SWM Management Handbook BMP Checklist** – Provide the applicable BMP Design Checklist from the Virginia Stormwater Management Handbook (Appendix 8-A), latest edition. A BMP-type specific checklist shall be provided for each BMP proposed in the SWM Plan.

3.4.4 SWM BMP Maintenance Agreement

A Maintenance Agreement that includes the post construction long term operation and maintenance requirements must be submitted with the SWM plan. The Agreement and accompanying maintenance requirements must be recorded before the City will release any bonds or terminate the permit.

3.4.5 SWM Plan Exceptions

An Applicant may request in writing for an exception to the SWM technical criteria and design standards and specifications. An exception may be granted by the Program Manager if:

- The exception is the minimum necessary to afford relief;
- Reasonable and appropriate conditions are imposed as necessary upon any exception granted so that the intent of the Virginia Stormwater Management Act and the technical criteria are preserved;
- Granting the exception will not confer any special privileges that are denied in other similar circumstances; and

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- The request is not based upon conditions or circumstances that are self-imposed or self-created.

Economic hardship alone is not a sufficient reason to request an exception from the requirements of the technical criteria or design standards and specifications. The following exceptions will not be granted:

- The requirement that a land-disturbing activity obtain a state permit, when applicable.
- The use of a BMP not found on the BMP Clearinghouse.
- Requirements for phosphorus reductions.

Requests for exceptions will be considered by the Program Manager, and if deemed appropriate, submitted to DEQ for review. All exceptions must be approved by DEQ Central Office.

The Program Manager reserves the right to disallow the use of proprietary SWM measures based on findings that demonstrate poor performance related to volume reduction, pollutant removal, or maintenance. Sufficient detail shall be provided on the SWM Plan for allowed proprietary measures, including any necessary design computations, installation instructions, and inspection and maintenance guidance. Installation and maintenance shall be per the manufacturer's recommendations.

3.5 VPDES Construction General Permit (VAR10)

The General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Stormwater from Construction Activities, VAR10 (also referred to as VPDES Construction General Permit or VPDES CGP) is a Federal Clean Water Act permit issued by the Commonwealth of Virginia. As an authorized Virginia Stormwater Management Program (VSMP) Authority, Program staff review and approve ESC and SWM Plans, confirm the plan approval in accordance with the General Permit requirements, collect the appropriate fee, and then notify DEQ that the regulated LDA qualifies for coverage. DEQ then issues the applicant a letter confirming permit coverage.

In addition to the City-approved ESC and SWM plans, as applicable, a Stormwater Pollution Prevention Plan (SWPPP) as described in this section is required. A SWPPP template that can be used for all projects, and a SWPPP Template that can be used for single-family detached residential construction applicants is provided on the Stormwater Program webpage. Alternatively, applicants may develop and use their own SWPPP.

When applicable, the staff will verify coverage under the VPDES CGP at the preconstruction meeting described in Section 3.6.

A coverage letter from VDEQ is required prior to the commencement of the LDA and shall be maintained in the project Stormwater Pollution Prevention Plan described in this section. The contractor (or operator) of the LDA is responsible for compliance with permit conditions. Program staff will conduct oversight of permit compliance through site inspections as described in Section 4.0.

3.5.1 Stormwater Pollution Prevention Plans (SWPPP)

A SWPPP shall be prepared and certified, in accordance with the permit by the permittee or duly authorized representative. Applicants may use one of the SWPPP Templates provided in **Appendix G**. The permittee is responsible for implementation of the SWPPP and may delegate authority for certifications (e.g. SWPPP and inspection form certifications) using the *Delegation of Authority Form* provided in the SWPPP template.

3.5.2 Special Conditions for Total Maximum Daily Loads

Dependent on the location of a project, special conditions may apply if a waste load allocation has been assigned to construction activity in a DEQ approved Total Maximum Daily Load (TMDL). At this time, the only applicable TMDL for regulated LDA in the City is the Chesapeake Bay TMDL. The special conditions include the increased frequency that the permittee's or the operator's qualified personnel must inspect the ESC measures to ensure that they are in good working condition. Refer to Section 4 of this guidance and the SWPPP Template for more information about the requirements of these inspections.

3.5.3 Off-site Land-Disturbance Activity

Offsite support facilities are defined as those facilities such as staging areas, equipment and material storage areas, unsuitable and surplus material disposal areas, borrow areas, etc., which are located outside of the project limits shown on an approved ESC and/or SWM Plan. It is the responsibility of the operator to ensure applicable plans for these offsite areas are approved and permits are obtained for support facilities prior to the commencement of the LDA.

3.5.4 Pre-construction Meeting

A preconstruction meeting is required for all regulated LDA prior to the commencement of the activity. The permittee is responsible for scheduling a meeting with Stormwater Program Manager or designee. The certified Responsible Land Disturber (RLD) shall be identified on the permit application and the plans at, or prior to, the preconstruction meeting. The permittee shall ensure the individuals identified in Section 1 of the *Preconstruction Meeting Form* (provided in **Appendix D**) attend the meeting and the checklist items of the form will be available at the meeting.

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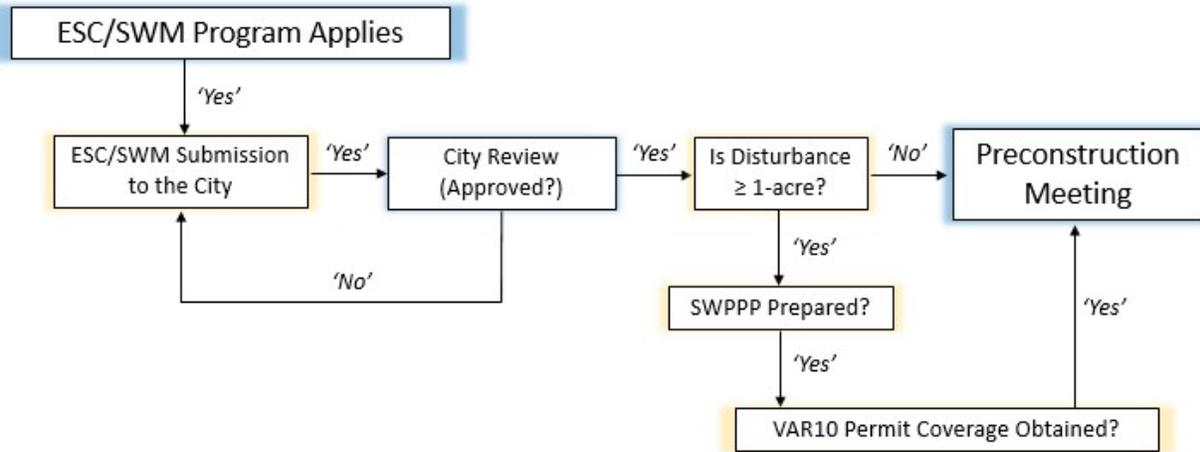


Figure 3.1 Summary of the development process prior to commencement of land disturbance. (Blue highlighted actions to be performed by the City, yellow actions to be performed by the applicant.)

4.0 IMPLEMENTATION THROUGH CONSTRUCTION

Section 4 describes the required actions of the permittee and program staff during the implementation of a regulated LDA.

4.1 Permittee/Owner/Operator Responsibilities

The permittee's responsibilities prior to and during a regulated LDA include, but is not limited to:

- Applying for and obtaining VPDES CGP coverage;
- Complying with the conditions of the VPDES CGP, when applicable;
- Updating and maintaining the SWPPP as required by the VPDES CGP; ; and
- Performing and documenting self-inspections as required by the VPDES CGP. It is recommended that the contractor use the inspection form in Appendix F. It is also recommended that the permittee have inspections performed by a VDEQ certified ESC/SWM Inspector per 9VAC25-850.
- Adhering to the approved plans unless otherwise approved in writing by the City;
- Maintaining the approved plans, and an up-to-date SWPPP (e.g. plan modifications and inspection forms) on the project site at all times;
- Obtaining necessary permit coverage and plan approvals for applicable off-site activities;
- Providing SWM BMP certified record drawing per Section 4.1.1; and
- Responding to any corrective action(s) and specified timeframes identified as the result of a City or DEQ inspection.

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4.1.1 SWM Facility Record Drawings

Certification of the construction of all stormwater management facilities shall be submitted for review and approval. The certification shall be signed and sealed by a licensed professional certifying that the stormwater management facilities have been constructed in accordance with the approved plan, and include the following:

- A completed and certified copy of the *Stormwater Management Facility Record Drawing and Certification Form* in **Appendix F**;
- A signed and sealed copy of the certifying professional's inspection log, including incremental surveys (drawings), photographs, construction logs, inspection reports, geotechnical testing reports, soil reports, certification of materials, and all other applicable information necessary to support and ensure the SWM facility has been built in accordance with the approved Plan; and
- A record drawing (as-built) signed and sealed by the licensed professional that includes:
 - Confirmation of the applicability of the long-term inspection and maintenance schedule for the SWM facility as extracted from the approved SWM Plan; and the
 - Confirmation of the total drainage area being served by the stormwater practice as shown on the approved plans.

In the case that a SWM facility has not been constructed and installed in accordance with the approved SWM Plan, the licensed professional(s) responsible for certifying the as-built shall immediately notify the Stormwater Program Manager. Generally, there are two potential options when a facility is not constructed in accordance with the approved Plan:

- **Option 1:** Re-construct the facility in accordance with the approved Plan. It will be necessary to repeat the inspections, surveys, and documentation process such that the licensed professional shall certify the facility is constructed in accordance with the approved Plan.
- **Option 2:** Perform calculations and analysis, based on the licensed professional's surveys, data, inspections, and other applicable documentation necessary to verify the as-built conditions meet the technical criteria. The licensed professional shall certify the as-built condition of the facility meets the quantitative and qualitative controls and submit the final report as required in this section. The revised plans and computations will be reviewed and, if acceptable, approved.

4.2 City Responsibilities

The Program Manager is responsible for ensuring implementation of the ESC and SWM Programs. In addition to plan reviews and approvals, the programs meet these responsibilities with oversight of the LDA that includes inspections, enforcement actions, and acceptance of record drawings.

4.2.1 Inspections

Program Staff will perform inspections on all regulated LDA. The individual performing inspections

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shall be certified as an ESC and SWM Inspector in accordance with the ESC and SWM Certification Regulations (9VAC25-850). The applicable inspection report provided in Appendix E shall be completed by the inspector on each inspection and a copy provided to the appropriate individual identified on the Preconstruction Form within 2 business days.

Where a VPDES CGP coverage is required, City inspections are in addition to the permittee's self-inspection requirements described in the SWPPP.

Program staff will conduct inspections according to the following schedule:

- After the installation of initial ESC measures for each phase as applicable;
- At least once in every two-week period,
- Within 48 hours following any runoff producing storm event,
- At the completion of the project, and
- Periodically as deemed necessary.

Inspection reports shall specify a required corrective action for each violation noted and a date by which the corrective action must be completed.

4.2.2 Enforcement

The Program Manager reserves the right to enforce the ESC and SWM Programs upon discovery of noncompliance through inspection or through public reporting. Compliance status will be conveyed in writing using the *Construction Site Inspection Form Compliance Summary* and the *Construction Site Inspection Form* (LD-05, LD-06 and LD-07) in Appendix E. The compliance summary will be completed with each inspection and may also be used if an issue of noncompliance is identified outside of an inspection. The compliance summary will:

- Summarize the item(s) of noncompliance identified on the inspection form,
- Provide an indication of severity of compliance status, and
- Provide a description of the necessary corrective action and a timeframe for completing the action.

Enforcement will be consistent with the color-coding system on the Inspection Forms which generally includes the following guidelines:

- **Green flag** – Site was in compliance with the ESC and SWM Program at the time of inspection.
- **Yellow flag** – Items of noncompliance that have not resulted in observation of sediment or other pollutants being discharged from the project area. A yellow flag serves as a warning. If specified corrective action is not performed in the specified timeframe, the issue could be elevated to a red flag by the Inspector.
- **Red flag** - Items of noncompliance that have resulted in observed or perceived offsite

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transport of sediment or other pollution. A red flag serves as a Notice of Violation and if the item(s) are not addressed in the specified timeframe, can be elevated to a black flag by the Inspector.

- **Black flag** - Items of noncompliance that are either elevated from a red flag or are in significant conflict with the ESC and SWM Program. A black flag requires a submission to the Stormwater Program Manager for a determination if work on site must stop until the corrective action is completed. The City is not responsible for losses associated with a notification that stops work.

4.2.3 Modifications to Approved Plans

An approved Plan may be changed by direction or approval by the Stormwater Program Manager in the following cases:

- Where inspection has revealed the plan is inadequate to satisfy applicable regulations; or
- Where the person responsible for carrying out the approved Plan finds that because of changing circumstances, or for other reasons, the approved Plan cannot be effectively carried out. Proposed amendments to the Plan, consistent with the requirements of the ESC and SWM Programs, are agreed upon by the Program Manager and the person responsible for carrying out the Plan.
- Amendments to an approved ESC and SWM Plan are submitted in writing and shall not be considered approved until written notice is provided verifying compliance with the ESC and SWM Programs. Modifications to approved plans and on-site changes shall be documented on the approved plans by the permittee.

4.2.4 Approval of SWM Facility As-Built Record Drawings

The City will review and approve record drawing submissions described in Section 4.1.1 and return an approved copy of the *SWM Facility Certification Form* (LD-SS06) to the permittee or provide written comments in the case that a record drawing submission is not approved.

4.2.5 Termination of Land Disturbance

The City will provide to the permittee a completed and approved *Termination of Hopewell Land Disturbance Form* (**Appendix F**) upon:

- The approval of the record drawing submittal described in this section, and
 - Verification that the area of disturbance has reached final stabilization to the satisfaction of the Inspector based on the definition provided below (from the Construction General Permit).
- **Final Stabilization** means that one of the following situations has occurred:
1. All soil disturbing activities at the site have been completed and a permanent vegetative cover has been established on denuded areas not otherwise permanently stabilized. Permanent vegetation shall not be considered established until a ground cover is achieved that is uniform (e.g., evenly distributed), mature enough to survive, and will

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inhibit erosion.

2. For individual lots in residential construction, final stabilization can occur by either:
 - a. The homebuilder completing final stabilization as specified in subdivision 1 of this definition; or
 - b. The homebuilder establishing temporary soil stabilization, including perimeter controls for an individual lot prior to occupation of the home by the homeowner, and informing the homeowner of the need for, and benefits of, final stabilization.
3. For construction projects on land used for agricultural purposes, final stabilization may be accomplished by returning the disturbed land to its preconstruction agricultural use. Areas disturbed that were not previously used for agricultural activities, such as buffer strips immediately adjacent to surface waters, and areas that are not being returned to their preconstruction agricultural use must meet the final stabilization criteria specified in subdivision 1 or 2 of this definition.

Acceptance of the record drawing submission or issuance of the *Termination of Hopewell Land Disturbance Form* does not release the contractor from the VPDES CGP. The contractor is required to seek termination of the VAR10 and shall not seek termination until receipt of the approved *Termination of Hopewell Land Disturbance Form*.

4.2.6 Release of Performance Bonds

The requirement for, application of, and release of performance bonds will be in accordance with the SWM Ordinance.

5.0 POST CONSTRUCTION MONITORING

Long-term functionality and maintenance of all privately-owned stormwater facilities is documented using the maintenance agreements recorded in the local land records prior to plan approval as required in Section 1-10 of the SWM Ordinance. The agreements shall reference, or include, the long-term inspection and maintenance plan identified on the SWM Plans. The owner of the facility is responsible for perpetually performing inspections and maintenance per the plans and agreement.

Program staff will provide oversight with an inspection of the facility at least once each five years. The maintenance agreement shall allow access onto the property to conduct inspections. If the inspection results in the identification of maintenance needs for the intended functionality of the facility, the Owner will be provided a written inspection summary with a list of corrective actions, including a timeframe to perform the corrective actions. If the Owner does not perform the corrective actions, the City will perform the corrective actions at the Owner's expense in accordance with the maintenance agreement.

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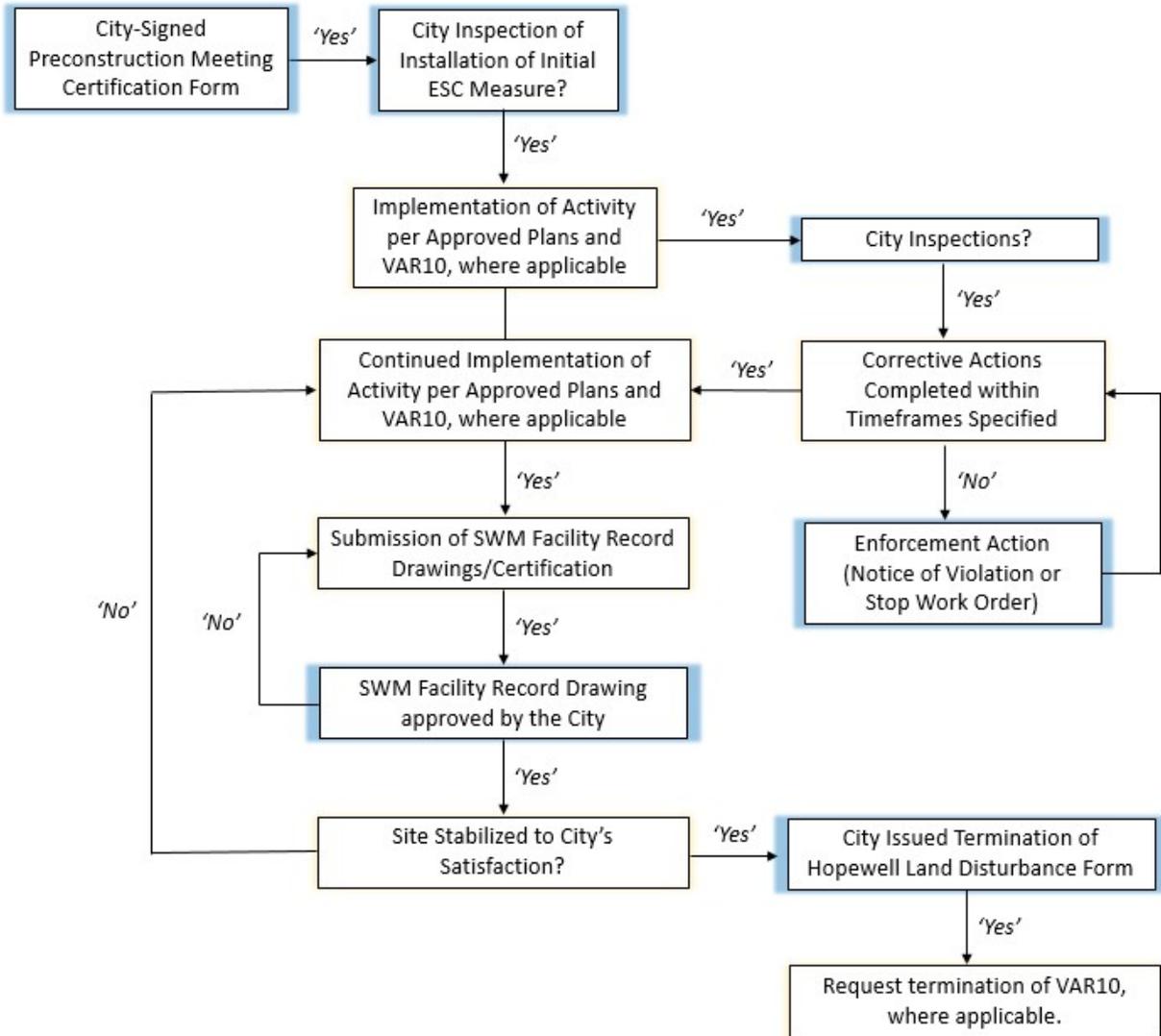


Figure 4.1 Summary of the development process from commencement of land disturbance to termination of land disturbance permits. (Blue highlighted actions to be performed by the City, yellow actions to be performed by the applicant.)