



**CITY COUNCIL AGENDA**  
**May 5, 2014**

**6:00 p.m. – 7:00 p.m.**

**Closed session as provided by Section 2.2-3712 of the Virginia Code**  
*Second Floor Conference Room (sale of market property at Water Street)*

**CALL TO ORDER**  
**PLEDGE OF ALLEGIANCE**  
**ROLL CALL**

*Council Chambers*

**AWARDS/RECOGNITIONS**  
**ANNOUNCEMENTS**

Kids to Parks Day; Fellow of the American Institute of Certified Planners Award; Police Memorial Week; Give4Good

**MATTERS BY THE PUBLIC**

Public comment will be permitted for the first 12 speakers who sign up in advance of the meeting (limit of 3 minutes per speaker) and at the end of the meeting on any item, provided that a public hearing is not planned or has not previously been held on the matter.

**COUNCIL RESPONSE TO MATTERS BY THE PUBLIC**

**1. CONSENT AGENDA\***

(Items removed from the consent agenda will be considered at the end of the regular agenda.)

a. Minutes for April 21

b. APPROPRIATION:

Department of Public Works/ Division of Public Service Reimbursements – \$80,204  
(2<sup>nd</sup> of 2 readings)

c. APPROPRIATION:

Excess Sale Proceeds – \$33,957 (2<sup>nd</sup> of 2 readings)

d. APPROPRIATION:

Police Department Miscellaneous Revenue and Insurance Recovery - \$26,000  
(2<sup>nd</sup> of 2 readings)

e. APPROPRIATION:

Insurance Claim Recovery – Human Services Fund - \$8,852 (1<sup>st</sup> of 2 readings)

f. RESOLUTION:

National Fish and Wildlife Foundation Grant to James River Grant - \$50,000  
(1<sup>st</sup> of 1 reading)

g. RESOLUTION:

Surplus Police Car Donation to Central Shenandoah Criminal Justice Training Academy  
(1<sup>st</sup> of 1 reading)

h. ORDINANCE:

Amend Chapter 10 of the City Code (Water Protection) to establish a local Virginia Stormwater Management Program (“VSMP”) (2<sup>nd</sup> of 2 reading)

**2. PUBLIC HEARING /  
RESOLUTION\***

Annual FY 2014-15 Action Plan for HUD (1<sup>st</sup> of 1 reading)

**3. REPORT**

Charlottesville Affordable Housing Fund (CAHF) Annual Report

**4. RESOLUTION\***

Charlottesville Affordable Housing Fund (CAHF) Funding Allocation – \$636,712  
(1<sup>st</sup> of 1 reading)

**5. ORDINANCE\***

Zoning and Subdivision Ordinance Amendments Related to Virginia Stormwater Management Program Regulations (1<sup>st</sup> of 2 readings)

**6. REPORT**

Police Department Update

**7. REPORT**

State of the Forest

**OTHER BUSINESS**

**MATTERS BY THE PUBLIC**

\*ACTION NEEDED

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**CITY OF CHARLOTTESVILLE, VIRGINIA.  
CITY COUNCIL AGENDA.**



<b>Agenda Date:</b>	April 21, 2014
<b>Action Required:</b>	Appropriation of Funds
<b>Presenter:</b>	Steve Lawson, Public Service Manager
<b>Staff Contacts:</b>	Steve Lawson, Public Service Manager Leslie Beauregard, Director, Budget and Performance Management
<b>Title:</b>	Department of Public Works/ Division of Public Service Reimbursements - \$80,204

**Background:** The Public Service division of Public Works has received additional unbudgeted revenue as reimbursement for damages to City property and for work performed for the University of Virginia. Insurance reimbursements have been received for the traffic signal upright and controller box at the intersection of Monticello Avenue and Ridge St that was demolished on 10/31/13 by a privately owned truck and for the portion of guardrail at the intersection of 250 and 29 which was damaged by a private vehicle on 10/10/13. Additionally, a City crew painted 197 V - sabres on city streets at the request of the University of Virginia in August of 2013. Public Service would like to request that those funds be appropriated back into the traffic and streets budgets to off-set the unbudgeted expenses that were incurred relating to these incidences.

**Discussion:** The traffic signal and controller were replaced at a total cost of \$42,000. The replacement costs were paid using funds from the Traffic budget. Repairs to the damaged section of the guardrail totaled \$8,543 and were paid from the Streets Operation budget. Given that these repair expenses were not part of the original budget, it is requested that the insurance reimbursement for these damages be appropriated back to the traffic and streets budgets respectively.

In August of 2013, the University of Virginia requested the painting of V - sabres on city streets. The City received reimbursement for the cost of overtime and materials in the amount of \$29,661. Given that these costs were not part of the original budget, it is requested that the reimbursement of \$29,661 be appropriated into the Streets Operation budget.

**Community Engagement:** N/A

**Alignment with City Council's Vision and Priority Areas:** Appropriation of this item aligns with Council's vision of being a connected community by replacing safety related infrastructure on city streets.

**Budgetary Impact:** Since the funds being appropriated have been paid to the City from outside sources, there is no budgetary impact.

**Recommendation:** The recommendation is that funds be appropriated back into the accounts from which the expenses were made: Traffic Operations (2471001000) - \$42,000; and Streets Operations (2443001000) - \$29,661.

**Alternatives:** N/A

**Attachments:** N/A

**APPROPRIATION**  
**Department of Public Works/Division of Public Service Reimbursements**  
**\$80,204**

**WHEREAS**, the City of Charlottesville, through the Public Service Division of Public Works, has received an Insurance Settlement in the amount of \$42,000 to Traffic Operations for replacement of damaged traffic signal, an additional Insurance Settlement of \$8,543 to Streets and Sidewalks for replacement of damaged guardrail, and payment from the University of Virginia of \$29,661 for expenses related to the painting of V-sabres;

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Charlottesville is hereby appropriated in the following manner:

**Revenue**

\$ 42,000	Fund: 105	Cost Center: 2471001000	G/L Account: 451110
\$ 8,543	Fund 105	Cost Center: 2443001000	G/L Account 451110
\$ 29,661	Fund 105	Cost Center: 2443001000	G/L Account 432155

**Expenditures**

\$42,000	Fund: 105	Cost Center: 2471001000	G/L Account: 541040
\$ 8,543	Fund 105	Cost Center: 2443001000	G/L Account 530200
\$ 29,661	Fund 105	Cost Center: 2443001000	G/L Account 520400

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**CITY OF CHARLOTTESVILLE, VIRGINIA.  
CITY COUNCIL AGENDA.**



Agenda Date:	April 21, 2014
Action Required:	Appropriation of Funds
Presenter:	Jason Vandever, City Treasurer
Staff Contacts:	Jason Vandever, City Treasurer Todd Divers, Commissioner of the Revenue Karen Parker, Director of Information Technology
<b>Title:</b>	<b>Excess Sale Proceeds- \$33,957</b>

**Background:**

As part of the City's delinquent tax collection process, certain properties with extensive delinquencies are sold by the City when no other collection methods are available. Two such properties were sold in 2011, and as of November 17<sup>th</sup>, 2013, no claim had been made by any beneficiary for the excess proceeds of the sale, totaling \$33,957 after attorney fees.

In accordance with State Code 58.1-3967, after a two year waiting period, the Clerk of Circuit Court has distributed these funds to the City Treasurer for deposit.

The City has a history of using these one-time proceeds for projects that directly benefit City residents. In 2007, judicial sale proceeds were used to upgrade payment processing technology in the Treasurer's Office, which greatly increased efficiency and reduced payment exception processing time. We are proposing that these new funds be applied to our current CIP project, the installation of a new tax system.

**Discussion:**

Currently \$600,000 has been budgeted for the installation of a new Integrated Tax System, and the bids we have received from vendors are right at that threshold. It was previously assumed that the Cashiering System provided by City Department of Information Technology (I.T.) would remain a separate system. To do so, it will have to be re-written to conform to current development standards and work with the new Integrated Tax System.

Based on current project estimates, an investment of \$33,957 would help the City purchase an extra vendor module to allow the Integrated Tax System to handle cashiering as well. This addition would benefit the City and its customers by:

- Improving Operational Efficiency: Information would not have to be entered into two separate systems and month end processing would be consolidated.
- Improving Customer Service: Instead of having to wait until the payment is entered

into the Integrated Tax System, the customer's account would immediately reflect their payment.

- Optimizing City I.T. Resources: Re-writing the cashiering system is estimated to take 9 months. By purchasing this functionality, City I.T. software development resources could be assigned to other City projects.

**Community Engagement:**

The original budget allocation for this project was approved through the City's C.I.P. process in prior fiscal years, and went through the standard public hearing sessions.

**Alignment with City Council's Vision and Priority Areas:**

Appropriation of this item aligns with the City Council Vision Statements of a Smart, Citizen, Focused Government and Economic Sustainability.

**Budgetary Impact:**

There is no budget impact since these funds are one-time revenue, and not previously budgeted. The revenue received fully covers the appropriation.

**Recommendation:**

Staff recommends these funds be appropriated into the capital account for the Integrated Tax System.

**Alternatives:**

Another alternative would be to seek these funds from the C.I.P. contingency fund. If no funding became available, City I.T. staff would re-write the current Cashiering System, which may delay the implementation of the new Integrated Tax System.

**Attachments:**

Appropriation



**APPROPRIATION**

**Excess Sale Proceeds- \$33,957**

**Whereas**, the City of Charlottesville, through the City Treasurer’s Office, has received excess sale proceeds in the amount of \$33,957 through the judicial sale of a delinquent tax parcels

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Charlottesville, funding is hereby appropriated in the following manner:

Transfer From

\$33,957      Fund: 105      Cost Center: 9803030000      G/L Account: 561426

Transfer To

\$33,957      Fund: 426      W.B.S. Element: P-00719      G/L Account: 599999  
\$33,957      Fund: 426      W.B.S. Element: P-00719      G/L Account: 498010.

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**CITY OF CHARLOTTESVILLE, VIRGINIA.  
CITY COUNCIL AGENDA.**



Agenda Date:	April 21, 2014
Action Required:	Appropriation of Funds
Presenter:	Lieutenant C. S. Sandridge, Charlottesville Police Department
Staff Contacts:	Lieutenant C. S. Sandridge, Charlottesville Police Department Leslie Beauregard, Director, Budget and Performance Management
Title:	<b>Police Department Miscellaneous Revenue and Insurance Recovery - \$26,000</b>

**Background:**

The City of Charlottesville's Police Department has generated \$26,000 in additional revenue that was not budgeted in F.Y. 2014. This revenue is proposed to be appropriated in order to cover operational expenditure needs.

**Discussion:**

During F.Y. 2014, the Police Department has generated and collected additional revenue that was not included in the department's original F.Y. 2014 budget. The revenue has been received for items such as reimbursement for insurance recovery, and for fees charged for reports and other services provided to the public and other agencies

The department would like to have these appropriated back into its operating budget to supplement the operating budget and offset the costs associated with the activities that generated the revenue.

**Community Engagement:**

N/A

**Alignment with City Council's Vision and Priority Areas:**

Appropriation of this item aligns with Council's visions by replacing revenue in our budget to aid the Police Department in delivering optimal services to our City as a Smart, Citizen-Focused Government.

**Budgetary Impact:**

The funds will be appropriated to the Police Department budget in the General Fund.

**Recommendation:**

Appropriate funds

**Alternatives:** N/A

**Attachments:** N/A

**APPROPRIATION.**  
**Police Department Misc. Revenue and Insurance Recovery.**  
**\$26,000**

**WHEREAS**, the City of Charlottesville Police Department has received revenue, in excess of budgeted revenue, totaling \$26,000; and

**WHEREAS**, this revenue \$26,000 is proposed to cover operational expenses of the Police specified below for the remainder of the fiscal year.

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia, that the sum of \$26,000 which has been received is hereby appropriated as follows:

**Revenue**

	Fund	Cost Center	G/L Account
\$13,300	105	3101001000	451999
\$12,700	105	3101001000	451110

**Expenditures**

	Fund	Cost Center	G/L Account
\$26,000	105	3101001000	599999

CITY OF CHARLOTTESVILLE, VIRGINIA.  
CITY COUNCIL AGENDA.



Agenda Date:	May 5, 2014
Action Required:	Approve Appropriation
Presenter:	Mike Murphy, Director, Human Services
Staff Contacts:	Mike Murphy, Director, Human Services Leslie Beauregard, Director, Budget and Performance Management
Title:	<b>Appropriation for Insurance Claim Recovery – Human Services Fund - \$8,852</b>

**Background:** The City insurer Virginia Municipal League provided a check in the amount of \$8,852, as payment on a claim for a vehicle totaled.

**Discussion:** A Ford Escape owned by the City was hit by a vehicle and estimated by the insurance agency to be a total loss. The total amount reimbursed to the City was \$8,852

**Community Engagement:** N/A

**Alignment with City Council's Vision and Priority Areas** The appropriation aligns with Council's Vision as **America's Healthiest City** as Community Attention Foster Families is a part of the strong support system we have in place. This item also aligns with Council's vision for **Quality Housing Opportunities for All**.

**Budgetary Impact:** Funds appropriated into the Community Attention Foster Families Cost Center will off-set the cost of replacement. Total cost of vehicle replacement was \$21,522.

**Recommendation:** Approve appropriation.

**Alternatives:** City Council may choose not to appropriate these funds for Community Attention Foster Families. Without an appropriation these funds will be returned to the City Insurer, Virginia Municipal League.

**Attachments:** N/A

**APPROPRIATION.**  
**Appropriation for Insurance Claim Recovery – Human Services Fund.**  
**\$8,852.**

**WHEREAS**, the Virginia Municipal League has provided a check in the amount of \$8,852 as payment on a claim for the total loss of a City of Charlottesville vehicle.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia that \$8,852 is hereby appropriated in the following manner:

**Revenues - \$8,852**

Fund: 213                      Cost Center: 3413002000                      G/L Account: 451110

**Expenditures - \$8,852**

Fund: 213                      Cost Center: 3413002000                      G/L Account: 541040

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date:	May 5, 2014
Action Required:	Approval Resolution to Transfer Funds
Presenter:	Dan Frisbee, Water Quality Specialist
Staff Contacts:	Kristel Riddervold, Environmental Sustainability Manager Chris Gensic, Parks Planner Amada Poncy, Bike/Ped Planner
<b>Title:</b>	<b>Transfer of Funds for National Fish and Wildlife Foundation Grant awarded to James River Association - \$50,000</b>

**Background:**

The James River Association (JRA) is a 501(c)(3) nonprofit organization headquartered in Richmond, Virginia and works to protect and enhance the James River and the 15,000 miles of tributaries that flow throughout its 10,000 square mile watershed. Founded in 1976, JRA's mission is to be the guardian of the James River, to provide a voice for the river and take action to promote conservation and responsible stewardship of its natural resources.

On June 5, 2013, the City of Charlottesville provided a letter of support, including a commitment to a \$50,000 cash match, for a grant proposal from the JRA to the National Fish and Wildlife Foundation (NFWF) to work with three localities (Charlottesville, Lynchburg, and Petersburg) on a project to promote green infrastructure. In October 2013, JRA was awarded a \$400,000 NFWF grant to fund a project titled "Promoting Green Infrastructure For Three Urban Localities" (Project Number 0602.13.040237), which will include capacity building for local staff, homeowner education events, facilitation of a "walkable watershed" planning process, and installation of a capstone green infrastructure project. As described in the proposal material, the Walkable Watershed approach is unique in linking the concepts of equity, community health, water quality, and smart growth.

**Discussion:**

The City of Charlottesville, as a partner in the grant, will benefit from \$40,000 cash support for the capstone green infrastructure project as well nearly \$140,000 in additional support for the various project elements. In the City's letter of support, \$50,000 in cash match was committed. Per the proposal narrative, the City's cash match will be used to implement the green infrastructure project identified through the "Walkable Watershed" planning process. These funds will not be transferred to JRA for implementation of the project; rather they will be encumbered directly by the City. Similar funding support is being made available to the other two participating localities that are also bringing similar cash matches to the effort.

James River Association will also be bringing the technical experience and expertise of Skeo (a Charlottesville-based firm) and the Center for Watershed Protection (a non-profit organization with a Charlottesville office).

**Community Engagement:**

This project provides the opportunity to align efforts with the Strategic Investment Area (SIA) plan. The Walkable Watershed planning process will build off of previous data collection, research and community meetings conducted during the SIA planning process so as to not duplicate efforts. The proposed focus area consists of the southernmost portion of the SIA and the neighborhood from Elliott Avenue south to newly acquired parkland south of Jordan Park. The focus area would include several public housing developments as well as three parks that lie along Pollocks Branch. The Walkable Watershed approach itself is highly dependent on additional community engagement efforts.

**Alignment with Council Vision Areas and Priorities:**

The project supports several City Council Vision areas, including “A Green City”, “Healthiest City”, and “A Connected Community”. A Walkable Watershed integrates the flow of water and people into a cohesive strategy to improve the overall health of a community and the surrounding watershed. The concept is based on the idea that high-quality water goes hand-in-hand with a high quality of life, supporting access to the outdoors, enhanced community infrastructure and services, and stronger health.

**Budgetary Impact:**

The financial match to the proposed grant award comes from appropriated funds designated for stormwater demonstration projects (P-00653).

**Recommendation:**

Staff recommends transfer of funds into a new account from which the cash match will be expended.

**Alternatives:**

N/A

**Attachments:**

- June 5, 2013 letter of support from City of Charlottesville for JRA proposal to the National Fish and Wildlife Foundation (NFWF)
- Resolution to Transfer Funds



CITY OF CHARLOTTESVILLE

"A World Class City"

Office of The City Manager

P.O. Box 911 • Charlottesville, Virginia 22902  
Telephone 434-970-3101  
Fax 434-970-3890  
www.charlottesville.org



June 5, 2013

Amanda Bassow  
Eastern Partnership Office  
National Fish and Wildlife Foundation  
1133 Fifteenth St. NW, Suite 1100  
Washington, D.C. 20005

Dear Ms. Bassow,

The City of Charlottesville enthusiastically supports the James River Association's grant proposal *Promoting Green Infrastructure for Three Urban Localities*. As a Phase II MS4 locality, we see this partnership as an opportunity to further develop the City's stormwater management program and complement our current efforts, while also reaching a broad base of citizens within the community through educational outreach.


Charlottesville looks forward to being a part of this important initiative for two main reasons. The approach offers opportunities for enhancement of our green infrastructure knowledge base and on the ground inventory of practices. The "*Walkable Watersheds*" concept is a very timely and relevant approach to an area of the city where goals of natural resource and community rehabilitation through connectivity and landscape and infrastructure improvements can be tied into a newly expanding natural park area. The opportunity to bring additional technical expertise and resources to engage the community on a planning process that incorporates watershed planning and water quality improvements is exciting. Charlottesville has been growing in its understanding and commitments to environmental stewardship and this approach will help weave together various related policies and programs (MS4 program and TMDL requirements, integration of green infrastructure, community engagement, and complete streets). Charlottesville recently adopted a Stormwater Utility which will be effective in January 2014. An early effort with this program will involve water quality master planning and the timing of collaborative efforts such as the one in this grant proposal bring tangible projects on line that can help with the community's general understanding of the need and value of clean water.

Moore's Creek is an important natural asset in our area that has been listed as an impaired waterway. The stream's aquatic life community is impaired as a result of excessive sedimentation and bacterial levels mean that Virginia's water quality standards for safe swimming and other forms of recreation are not met. Efforts pursued in this grant will help to address those impairments and restore the water quality of Moore's Creek.

The City will be providing a \$40,000 in-kind match and \$50,000 cash match for a total of \$90,000 match towards the project. We anticipate using the cash match towards the implementation of one or more projects identified in the development of the *Walkable Watersheds* concept plan.

Charlottesville looks forward to working with this dedicated project team to realize improvements in our valuable community waterways. We encourage the National Fish and Wildlife Foundation to support this proposal in order to help protect and improve Moore's Creek and the Rivanna River, as well as Chesapeake Bay.

Sincerely,

  
Maurice Jones  
City Manager

**RESOLUTION**  
**Transfer of Funds for National Fish and Wildlife Foundation**  
**Grant Awarded to James River Association**  
**\$50,000**

**NOW, THEREFORE BE IT RESOLVED** by the Council of the City of Charlottesville, Virginia that the following is hereby transferred in the following manner:

**Transfer From**

\$ 50,000      Fund: 426      WBS: P-00653      G/L Account: 561641

**Transfer To**

\$ 50,000      Fund: 641      WBS: P-00811      G/L Account: 498010

\$ 50,000      Fund: 641      WBS: P-00811      G/L Account: 599999

**CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA**



<b>Agenda Date:</b>	5 May 2014
<b>Action Required:</b>	Review request to donate two surplus police cars to Central Shenandoah Criminal Justice Training Academy
<b>Presenter:</b>	Captain Gary Pleasants, Police Department
<b>Staff Contacts:</b>	Captain Gary Pleasants, Police Department
<b>Title:</b>	<b>Donation of surplus police cars to Central Shenandoah Criminal Justice Training Academy</b>

**Background:**

As part of the regular police vehicle replacement plan, the Police Department has replaced a 2006 Ford Sedan and a 2008 Ford Sedan which is now considered surplus. Surplus police vehicles are typically put up for sale by Purchasing, but are occasionally donated as was done with a 2000 GMC pickup truck in 2012. The Police Department has received a request from the Central Shenandoah Criminal Justice Training Academy (CSCJTA), requesting the donation of the surplus vehicles to be used in driver's training.

**Discussion:**

The vehicles being requested are a 2006 Ford Crown Victoria with over 96,000 miles on it and a history of repairs and a 2008 Ford Crown Victoria with over 127,000 miles on it. Similar units may be seen for sale with asking prices around \$5,000. The CSCJTA is requesting the donation to replace vehicles that no longer function. If their request for the donation is granted, they plan to use the vehicles for driver's training instruction for new police officers, including Charlottesville Police Officer recruits.

**Alignment with City Council's Vision and Priority Areas:**

The donation of these vehicles will allow for improved training for Charlottesville Police recruits as well as Albemarle County Police recruits and University of Virginia Police recruits, all who protect the citizens of the City of Charlottesville, County of Albemarle and University of Virginia students and employees, which aligns with Council's vision for Charlottesville.

**Budgetary Impact:**

This has no impact on the General Fund if donated. If the vehicles are sold, proceeds from the sale belong to the City.

**Recommendation:**

Staff recommends approval of the donation.

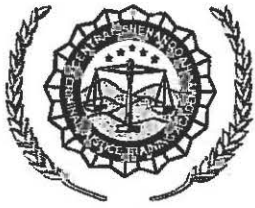
**Alternatives:**

If the request to donate is not approved, staff recommends the vehicles be turned over to Purchasing for sale/disposal as surplus property.

**Attachments:**

Letter from the director of the CSCJTA requesting the donation of the 2006 and 2008 Ford Crown Victorias.

Resolution



30 years  
Serving the Criminal Justice Community

## CENTRAL SHENANDOAH CRIMINAL JUSTICE TRAINING ACADEMY

3045 LEE HIGHWAY, WEYERS CAVE, VIRGINIA 24486

Voice: 540-234-9191 Fax: 540-234-8211

April 22, 2014

To: Chief T. Longo

From: Randy D. Mullins

Dear Chief Longo,

It was brought to my attention by one of the academy training coordinators that Charlottesville PD has two vehicles, a 2006 Ford Sedan (# 2785, VIN: 2FAHP71W16X63038) and a 2008 Ford Sedan (# 2836 VIN: 2FAHP71V68X132149), that are to be taken out of service.

I am not sure how the City of Charlottesville disposes of such property but, I would like to express to you that the academy would be interested in this vehicle should it become available for donation. The academy would of course, pay any costs/fees for legal transfer.

Thank you,

Randy D. Mullins  
Executive Director

## **RESOLUTION**

### **Donation of Surplus Fire Engine to Piney River Volunteer Fire Department**

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Charlottesville, Virginia that, at the request of the Central Shenandoah Criminal Justice Training Academy, the City of Charlottesville, through the Charlottesville Police Department, may donate two surplus police cars, 2006 and a 2008 Ford Crown Victorias, to the Central Shenandoah Criminal Justice Training Academy.

CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA



Agenda Date: April 21, 2014

Action Required: First Reading of Ordinance (April 21)  
Final Approval of Ordinance May 5, 2014

Presenters: Lisa Robertson, Chief Deputy City Attorney  
Marty Silman (NDS Engineering); Dan Frisbee (Public Works, Water  
Resources Specialist)

Staff Contacts: Lisa Robertson

**Title:** *Amendment of City Code Chapter 10 (Water Protection Ordinance), to comply with state requirement for establishment of a local VSMP prior to July 1, 2014*

**Background:**

During its 2012 Session, the General Assembly enacted legislation that requires Virginia localities to adopt local Virginia Stormwater Management Programs (VSMPs). Any locality that operates a regulated MS4 (Charlottesville) must implement its VSMP by July 1, 2014. The Virginia Department of Environmental Quality has established deadlines that require the City to submit the final VSMP Program Package (administrative components, such as a plan for staffing of plan reviews and inspections, plus an ordinance that has been adopted by City Council) for DEQ's approval, no later than May 15, 2014.

The State's VSMP requirements and regulations remain in flux, and have been amended and revised several times over the past two years. We anticipate additional changes at the state level, and may need to return to you with additional proposed amendments over the next year or two; however, the attached proposed ordinance changes are those required by current state law and regulations.

**Discussion:**

1. *Mandated changes*--Most of the Chapter 10 ordinance changes being presented to you for consideration derive from two Model Ordinances: (1) Model Stormwater Ordinance (approved by DEQ 12/13/2012 – source of proposed changes to Articles I and III of Chapter 10); and (2) Model Erosion and Sediment Control Ordinance (approved by DCR 7/1/2008 – source of most proposed changes to Article II of Chapter 10). DEQ has already reviewed a previous draft of the changes being presented to you, and DEQ's requested changes have been incorporated. DEQ utilizes a checklist to review these ordinances and allows only minor deviations from the Model Ordinance (matters of form and style; typically not substance).
2. *Required Integration of procedures; method not prescribed*--State laws and regulations mandate that the local VSMP and our ordinance must meet certain administrative requirements, including the following: (i) provisions for integration of the VSMP with our local E&S Program,

and other programs requiring compliance prior to authorizing construction, in order to make submission and approval of [development] plans, issuance of permits, etc., more convenient and efficient, *see* VA Code 62.1-44.15:27(E)(3); and (ii) issuance of a consolidated stormwater management and erosion and sediment control permit (“land disturbing permit”).

1. Although “integration” is mandated by state law, the Model Ordinances do not prescribe what (or how) the City must do in order to *achieve* integration of the VSMP and E&S Programs with other development review processes.
  2. The following proposed changes to Chapter 10 are for the purpose of achieving integration of the VSMP and E&S Programs and coordinating those Programs with other City procedures for approval of developments via site plans and subdivision plats, and with issuance of building code permits: **Sections 10-9(a); 10-9(b); 10-9(c); 10-31; 10-36(5)**. (Again, the proposed changes are not prescribed by DEQ, but represent our best recommendation as to how the required “integration” can be achieved).
  3. Attached is a chart showing the relationship between these Chapter 10 amendments (necessitated by DEQ’s “integration” mandate) and several proposed amendments to the City’s Subdivision and Zoning Ordinances. The Subdivision and Zoning Amendments are an agenda item that will be presented to you, separately, for consideration.
3. *Recommended updates*—A review of the E&S fee schedule in 10-42 revealed a number of items with incorrect references to applicable Code sections, and a number of more significant violations which carry only minor penalties. It is our recommendation that City Council should consider increasing several of the civil penalties to a more substantial amount, as shown within 10-42.

### **Community Engagement:**

As referenced above, the proposed Changes to Chapter 10 are driven by a State-mandated requirement for establishment of a local VSMP in accordance with State regulations and a DEQ-approved Model Ordinance. We have limited control over the contents of the ordinance required to establish the local program. However, the State legislation, and implementing regulations, followed a public process conducted at the state level, and DEQ’s web site offers a number of informational materials to the public. For example:

[http://www.deq.virginia.gov/Portals/0/DEQ/Water/StormwaterManagement/VSMP\\_FAQ.pdf](http://www.deq.virginia.gov/Portals/0/DEQ/Water/StormwaterManagement/VSMP_FAQ.pdf)

### **Alignment with City Council’s Vision and Priority Areas:**

Vision: “A Green City”—healthy rivers and streams; clean water; minimize stormwater runoff. Homes and buildings sustainably designed. Implement a sustainable Stormwater Program that addresses infrastructure, drainage and water quality challenges/ goals.

### **Budgetary Impact:**

At this time, no additional staff is anticipated. However, this state-mandated VSMP will add substantial plan review and inspection duties to existing staff, relative to stormwater management plans. A portion of fees collected from applicants must be shared with the State; however, the remainder of the fees will cover at least a portion of the City’s administrative costs for the VSMP.



**Recommendation:**

We recommend adoption of the proposed ordinance.

**Alternatives:**

None. If the City does not adopt an ordinance and submit its final program implementation checklist to DEQ prior to May 15, 2014, and is not prepared on July 1, 2014 to undertake responsibility for reviewing stormwater management plans and conducting inspections, DEQ will not continue to provide the stormwater administration and oversight.

**Attachments:**

1. Chart Showing Relationship to Zoning and Subdivision Regulations
2. Proposed Ordinance, with effective date July 1, 2014 - Attached are clean copy (incorporating proposed changes) and red-lined versions.

## WATER PROTECTION AND DEVELOPMENT APPROVALS: RELATIONSHIP BETWEEN PROPOSED CITY CODE AMENDMENTS

Chapter 10: Water Protection Ordinance	Chapters 29 and 34 (Zoning and Subdivision Ordinances)
<p><b>10-3(3):</b> One purpose of Chapter 10 is to establish procedures by which the City's VSMP, VESCP, MS4 programs shall be integrated with other development approvals.</p>	<p><b>29-2:</b> One purpose of the City's updated subdivision regulations is to integrate the subdivision development approval process with the City's VSMP and VESCP programs, to make the process for submission and approval of plans and permits more efficient</p>
<p><b>10-9:</b> applications for a permit authorizing land-disturbing activity within a development must <u>include</u> either: (i) an approved preliminary subdivision or site plan showing a layout of stormwater management facilities, or (ii) an approved final subdivision or site plan.</p>	<p><b>34-827(d)(4) and (d)(9):</b> a preliminary site plan must include a topographic survey identifying critical slopes, natural streams, and natural drainage areas AND a stormwater management concept <b>29-111(2):</b> same requirements as above, for preliminary subdivision plans</p>
<p><b>10-9(b):</b> No site plan or subdivision plat shall be granted final approval, unless and until such final plan/ plat includes facilities and treatments identified within an approved stormwater management plan</p>	<p><b>34-828(d) and (d)(6):</b> a final site plan shall reflect the conditions within an approved preliminary site plan, AND shall include the information, details, calculations, etc. required by Chapter 10 for approval of a stormwater management plan AND an erosion and sediment control plan</p>
<p><b>10-36(5):</b> No E&amp;S Plan shall be approved prior to approval of a required final site plan or final subdivision plat (except: utility projects of a public entity or public service corporation, OR to correct an existing erosion creating erosive conditions and sedimentation, only to the extent necessary to correct the existing problem)</p>	<p><b>29-276:</b> same requirements as above, for final subdivision plans <b>29-260(a):</b> <i>delete</i> clause suggesting that construction of site-related improvements may commence prior to approval of a final plat.</p>
<p><b>10-9:</b> No permit authorizing any land-disturbing activity shall be issued by any city department or official, unless and until a stormwater management plan AND an erosion and sediment control plan have been approved.</p>	<p><b>29-260(a) and 34-803(d):</b> prior to issuance of any permit authorizing any land disturbing activity within a development, a developer must post the required bonds, and SWM facilities must be completed prior to first CO, or within a time period specified by a written agreement. <b>29-202:</b> Every development must be designed to meet SWM requirements of Chapter 10, with specific SWM facilities/measures to be constructed by the developer</p>
<p><b>10-56(b):</b> provisions governing when a SWM facility might be dedicated to/ accepted by the City for ownership and maintenance</p>	<p><b>29-232(3):</b> Cross references provisions in 10-56, as to dedication/ acceptance of SWM facilities</p>
<p><b>10-9(a)(3):</b> prior to issuance of a land-disturbing permit, developer must provide SWM and E&amp;S Bonds</p>	<p><b>29-260(a):</b> Prior to the issuance of any building permit or any other permit authorizing land-disturbing activity bonds for site-related improvements (including SWM facilities) must be submitted</p>

# WATER PROTECTION ORDINANCE

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**ORDINANCE**  
**TO AMEND CHAPTER 10 OF THE CODE OF THE CITY OF CHARLOTTESVILLE**  
**TO ESTABLISH A LOCAL VIRGINIA STORMWATER MANAGEMENT**  
**PROGRAM (VSMP), TO COORDINATE THE VSMP WITH REQUIREMENTS OF**  
**THE LOCAL VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM**  
**(VESCP), AND TO UPDATE THE PROVISIONS OF CHAPTER 10 TO MEET**  
**REQUIREMENTS OF CURRENT REGULATIONS ADOPTED BY THE VIRGINIA**  
**STATE WATER CONTROL BOARD**

**WHEREAS**, pursuant to the requirements of Virginia Code Sec. 62.1-44.15:27 the City is required to establish a local Virginia Stormwater Management Program (VSMP) for land-disturbing activities, consistent with Virginia State Water Control Law, effective July 1, 2014; and

**WHEREAS**, the VSMP must be administered in conjunction with the City's established municipal separate storm sewer system (MS4) and Virginia Erosion and Sediment Control programs (VESCP); and

**WHEREAS**, the State's Department of Environmental Quality (DEQ) requires the VSMP and VESCP to be established within locally-adopted ordinances that contain certain provisions recommended by DEQ through the provision of model ordinances, consistent with regulations established by the State's Water Control Board; and

**WHEREAS**, following the establishment of the state-mandated VSMP, the City will be required to issue a consolidated stormwater management and erosion and sediment control permit, necessitating certain reorganization and integration of the definitions and procedural requirements in Chapter 10, Article I (In General) of the City Code with the provisions of Article II (Erosion and Sediment Control) and Article III (Stormwater Management); now, therefore,

**BE IT ORDAINED** by the Council of the City of Charlottesville:

- 1. That City Code Chapter 10, Article I (In General) be amended and re-ordained, as follows:**

**Sec. 10-1. Short title.**

This chapter shall be known and may be cited as the city's "Water Protection Ordinance."

**Sec. 10-2. Authority.**

This chapter is adopted pursuant to authority conferred by: (i) the Virginia State Water Control Law, set forth within the Virginia Code, Title 62.1, Chapter 3.1 (§§ 62.1-44.2 through 62.1-44.34:28), including, without limitation, §§ 62.1-44.15:27 and 62.1-44.15:54; (ii) Virginia Code, Title 15.2, Chapters 21 and 22; and (iii) the federal Clean Water Act (33 U.S.C. §§1251 *et seq.*).

### **Sec. 10-3. Purpose.**

The purposes of this chapter are:

- (1) To ensure the general health, safety, and welfare of the citizens of the City of Charlottesville by (i) protecting the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from 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, and (ii) preventing degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff; and
- (2) To provide a framework for the administration, implementation and enforcement of the provisions of the Virginia Stormwater Management Act and the Virginia Erosion and Sediment Control Law, and to delineate the procedures and requirements to be followed in connection with permits issued by the city, acting as a VSMP and VESCP authority, respectively; and
- (3) To establish procedures whereby the requirements of the city's VSMP, VESCP and MS4 programs shall be enforced in conjunction with one another, and to ensure integration of those program requirements with flood insurance, flood plain management and other programs requiring compliance prior to authorization of construction, in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the city and for those persons responsible for compliance with the programs.

### **Sec. 10-4. Rules of construction.**

This chapter protects paramount public interests and shall be liberally construed to effectuate its several purposes. The following rules of construction shall apply in the construction of this chapter, unless such application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

- (1) All references to any statute, ordinance, regulation, guideline, handbook, manual or standard shall be to such statute, ordinance, regulation, guideline, handbook, manual or standard as it exists on the date of adoption of this chapter and includes any subsequent amendment, reenactment, renumbering, or reissuance in a subsequent edition.

- (2) Any reference to "this article," "article II," "article III," or "article IV" shall include references to all applicable references of article I.
- (3) All references to "days" shall be to calendar days.
- (4) All references to a "fee schedule" shall mean and refer to a schedule of the fees and charges associated with the various applications, inspections, permits and approvals required by this chapter, as approved and amended by the city council from time to time. All required fees shall be made payable to the city treasurer.

#### **Sec. 10-5. Definitions.**

In addition to the definitions set forth within the Virginia Administrative Code (VAC) at 9VAC25-840-10, 9VAC25-850-10 and 9VAC25-870-10, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter shall have the following meanings unless otherwise specified herein. In the event of a conflict between any definition incorporated by reference and any definition following below, the definition incorporated by reference shall have precedence.

*Act* means, according to the context of its use, (1) the Stormwater Management Act set forth within Title 62.1, Chapter 3.1, Article 2.3 (§§62.1-44.15:24 *et seq.*) of the Virginia Code or (2) the Erosion and Sediment Control Law set forth within Title 62.1, Chapter 3.1, Article 2.4 (§§62.1-44.15:51 *et seq.*) of the Virginia Code.

*Administrator* means, when referring to a person performing duties relative to the city's VSMP or VESCP as set forth within this chapter, the city's department of neighborhood development services. The department of neighborhood development services shall have authority to act by and through the director of neighborhood development services and any city official, employee, contractor or other agent designated by the director of neighborhood development services to perform any responsibilities or functions assigned to the VSMP or VESCP Administrator. Whenever the term "Administrator" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

*Agreement in lieu of a plan* means (i) a contract between the VESCP Administrator and a property owner which specifies conservation measures which must be implemented in the construction of an individual single-family residence, not part of a common plan of development or sale; or (ii) a contract between the VSMP Administrator and a property owner which specifies methods that will be implemented to comply with the requirements of article III of this chapter in the construction of an individual single-family residence, not part of a common plan of development or sale. Such contract may be executed by the Administrator in lieu of a formal erosion and sediment control plan or stormwater management plan, as applicable.

*Applicant* means any person submitting an application for a permit or requesting the issuance of a permit under any provision of this chapter.

*Best management practice ("BMP")* means schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and

other management practices to prevent or reduce the runoff volume and pollution of surface waters and groundwater systems from the impacts of land-disturbing activities.

*Board* means the State Water Control Board.

*Clean Water Act* or *CWA* means the federal Clean Water Act, 33 U.S.C. 1251 *et seq.*, formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

*Clearing* means any activity which removes vegetative ground cover, including, but not limited to, root mat removal or top soil removal.

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

*Conservation standards, criteria or specifications* means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation whether promulgated by the program authority or contained in (1) the Virginia Erosion and Sediment Control Handbook and other regulations promulgated by the State Water Control Board, or (2) the Stormwater Management Handbook and other regulations promulgated by the Virginia Department of Environmental Quality.

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

*DEQ* and *Department* mean the Virginia Department of Environmental Quality.

*Development, land development* and *land development project* as used within this chapter each refer to land improved or to be improved as a unit, under single ownership or unified control, such improvement(s) including all of the land disturbance, and the resulting landform, associated with the construction of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures, and or the clearing of land for non-agricultural or non-silvicultural purposes. The term shall include the entire area within a common plan of development or sale..

*Director*, as used in Article V of this chapter, shall mean and include the city's director of public works and director of neighborhood development services, and the employees and agents authorized by either of them to exercise authority or to take enforcement action under the provisions of Article V. The term *director* as used within Articles II and III of this chapter, shall mean the director of neighborhood development services. Whenever the term "Director" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

*Erosion and sediment control plan* means a document containing materials and provisions 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 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 six thousand (6,000) square feet or less used for residential purposes.

*Excavating* means any digging, scooping, or other method(s) of removing earth materials.

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

*General permit* means the *State General Permit*, defined following below.

*Grading* means any excavating or filling, and any combination thereof, including the land in its excavated or filled conditions.

*Illegal discharge* and *illicit discharge* each means and refers to any discharge to the city's municipal storm sewer system ("MS4") that is not composed entirely of stormwater, except: (i) discharges pursuant to a VPDES permit; (ii) discharges resulting from firefighting activities; and (iii) any discharges specifically authorized within Article V of this chapter.

*Illicit connection* means any connection to the city's municipal storm sewer system ("MS4") made without the express written approval of an authorized city official.

*Land disturbance* or *Land disturbing activity* means any man-made<sup>1</sup> change to the land surface that (i) actually or potentially changes its runoff characteristics, including, without limitation, clearing, grading, or excavation, or (ii) that may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, without limitation, clearing, grading, excavating, transporting and filling. The entire land area within a common plan of development or sale, as a whole, shall be considered to be a single land disturbing activity.

*Layout* means a conceptual drawing sufficient to identify and provide for specific stormwater management facilities required at the time of approval.

*Licensed professional* means an individual who is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

*Local erosion and sediment control program* or *VESCP* means an outline of the various methods employed by the City to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, including, without limitation, city ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

*Minor modification* means, in relation to the State General Permit, an amendment to an existing State General Permit, before its expiration, not requiring extensive review and evaluation, including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor State General Permit modification or amendment is one that does not substantially alter State General Permit conditions, substantially increase or decrease the amount of surface water impacts, increase

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<sup>1</sup> Term of art required by law (VA Code Secs. 62.1-44.15:24 and 65.1-44.15:51)

the size of the operation, or reduce the capacity of the facility to protect human health or the environment.

*Mitigation plan* means a plan, a component of a stormwater management/BMP plan, an erosion and sediment control plan, or an agreement in lieu of a plan, that describes how encroachments into a stream buffer will be mitigated through runoff treatment, re-vegetation, the addition of extra buffer areas, or other appropriate measures.

*MS4* means the city's municipal separate storm sewer system. The terms "municipal separate storm sewer" and "municipal separate storm sewer system" shall have the meanings set forth within 9VAC25-870-10.

*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.

*Operator* means the owner or operator of any facility or activity subject to regulation under this chapter.

*Owner* means the owner(s) of the freehold of land, or a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person in control of a property. As used herein, "owner" also refers to, in the appropriate context, any person authorized to act as the agent for the owner.

*Peak flow rate* means the maximum instantaneous flow from a given storm condition at a particular location.

*Permit* means any building permit, grading permit, or other permit, including the approval of any site plan or subdivision plat, which is required to be issued by any board, commission, officer, employee or agency of the city as a prerequisite to any land disturbing activity or development. In relation to the provisions of articles II and III of this chapter the term shall mean an approval issued by the VSMP/VESCP Administrator for the initiation of a land-disturbing activity in accordance with this chapter, after evidence of State general permit coverage has been received.

*Permittee* means the person to whom a permit authorizing a land-disturbing activity is issued, and, in the appropriate context the term may refer to the person who certifies that an approved erosion and sediment control plan will be followed .

*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, any interstate body, or any other legal entity.

*Pollution Prevention Plan* shall mean a plan for implementing pollution prevention measures during construction activities, which meets the requirements of 9VAC25-870-56.

*Project* shall have the same meaning as set forth above for the term *development*.

*Public waters* means and refers to the public waters and waterways of the United States and of the Commonwealth of Virginia.

*Redevelopment* for purposes of this chapter, means and refers to construction of buildings, structures, fixtures or other improvements to land as replacement(s) for existing improvements.

*Regulations* means (1) in the context of the provisions of article II, the Virginia Erosion and Sediment Control Regulations set forth within 9VAC25-840-10 *et seq.* of the Virginia Administrative Code, or (2) in the context of the provisions of article III, the Virginia Stormwater Management Regulations set forth within 9VAC25-870-10 *et seq.* of the Virginia Administrative Code.

*Residential development* means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control, and which is to contain three (3) or more residential dwelling units.

*Responsible land disturber* or *RLD* means an individual holding a certificate of competence issued by the Department, who is responsible for the operations of carrying out land disturbing activity in accordance with an 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; however, the identity of the RLD must be designated on the approved erosion and sediment control plan or permit.

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

*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. All of the land that is part of a development, or of common plan of development or sale shall be considered as a single site.

*State* means the Commonwealth of Virginia, inclusive of its departments, boards, agencies and divisions.

*State Board* means the Virginia State Water Control Board.

*State General Permit* means the state permit titled “*General Permit for Discharges of Stormwater From Construction Activities*” referenced within the Virginia Administrative Code at 9VAC25-880-1 *et seq.*, authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

*State permit* means an approval to conduct a land-disturbing activity issued by the State Board. Under a State permit, the State imposes and enforces requirements pursuant to the federal Clean Water Act and related regulations and the Virginia Stormwater Management Act and related regulations.

*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.

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

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

*Stormwater management plan* means any document(s) containing material that describes method(s) for complying with the requirements of article III of this chapter.

*Stormwater Pollution Prevention Plan* or *SWPPP* means a document or set of documents prepared in accordance with good engineering practices, meeting the requirements set forth within 9VAC25-870-54, in which potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from a construction site are described, and control measures are identified.

*Stream buffer* means an area of land at or near a tributary streambank and/or nontidal wetland that has an intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to the quality of state waters.

*Subdivision* shall have the same meaning as set forth within Sec. 29-3 of the City Code.

*Total maximum daily load* or *TMDL* means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs may be expressed in terms of either mass per time, toxicity, or other appropriate measures. The TMDL process provides for point source versus nonpoint source trade-offs.

*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.

*VAC* means the Virginia Administrative Code. References to specific sections of the Virginia Administrative Code appear in the following format: e.g., 9VAC25-870-10. Whenever reference to a specific VAC section is given, the provisions of that VAC section shall be deemed incorporated into this chapter by reference, as if set forth herein verbatim.

*Virginia Erosion and Sediment Control Program* or *VESCP* means a program approved by the State that has been established by the City 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 article II of this chapter, and evaluation consistent with the requirements of this chapter and related federal, State and local regulations.

*Virginia Erosion and Sediment Control Program Authority* or *VESCP Authority* shall mean the City of Charlottesville, acting pursuant to authority granted by the State to operate a VESCP.

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

*Virginia Stormwater Management Act* means Article 2.4 (§§ 62.1-44.15:24 *et seq.*) of the State Water Control Law and the related state regulations set forth within 9VAC25-870-10 *et seq.*

*VSMP* or *Virginia Stormwater Management Program* means a program approved by the State Board after September 13, 2011, that has been established by the city to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in article III, and evaluation consistent with the requirements of article III.

*VSMP Authority* or *Virginia Stormwater Management Program Authority* means the City of Charlottesville, acting pursuant to authority granted by the State to operate a VSMP.

*Water dependent facility* refers to land development that cannot exist outside the stream buffer and must be located on a shoreline because of the intrinsic nature of its operation, including, without limitation: intake and outfall structures of water and sewage treatment plants and storm sewers; water-oriented recreation areas; and boat docks and ramps.

#### **Sec. 10-6. Program administration.**

(a) The city council hereby designates the department of neighborhood development services as its administrator for the programs referenced in Articles II, III, and IV. Administration and enforcement of Article V shall be as set forth within sections 10-92 and 10-93.

(b) The administrator shall administer and enforce the provisions of this chapter, acting by and through its director. The director may enter into agreements or contracts with the local soil and water conservation district, an adjacent locality, or another public or private entity, to carry out or assist with the responsibilities of this chapter. The director of the department of neighborhood development services shall have authority to assign specific responsibilities or functions of the administrator to authorized agents of such department, such as another city official, employee, or an independent contractor, consistent with requirements of this chapter and applicable state laws and regulations.

(c) The administrator shall establish reasonable regulations and interpretive guidelines for the administration of this chapter, subject to approval of city council. Such regulations and guidelines shall be consistent with this chapter and all applicable federal and State statutes and regulations.

(d) The administrator shall assure that the erosion and sediment control program set forth in Article II is administered by a certified program administrator, a certified plan reviewer, and a certified project inspector. Such positions may be filled by the same person. The administrator shall assure that persons reviewing stormwater management plans and conducting related inspections shall hold a certificate of competence issued by the Board.

(e) The administrator shall take appropriate enforcement actions to achieve compliance with this chapter, and shall maintain a record of enforcement actions for all active land disturbing activities and developments.

(f) The administrator is authorized to cooperate with any federal or State department, agency, or official in connection with plans for erosion and sediment control or stormwater management. The administrator may also recommend to the city manager any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the city manager on behalf of the city.

#### **Sec. 10-7. Saving provision.**

The adoption of this chapter shall not abate any pending action, liability, or penalty of any person accruing or about to accrue, nor waive any right of the city under any provision in effect prior to the date of adoption of this chapter, unless expressly provided for in this chapter. As they pertain to land disturbing activity for development that is the subject of a site plan or subdivision plat approved prior to July 1, 2014, the requirements of this chapter in relation to such development shall be as prescribed within the Regulations, or as otherwise specified by state law.

#### **Sec. 10-8. Appeals from decisions under this chapter.**

(a) Any person who is aggrieved by a decision of the administrator pursuant to this chapter shall have the right of review of such action by the city council. Any such appeal shall be filed in writing with the clerk of the city council within thirty (30) days of the date of such decision.

(b) An appeal received by the city council pursuant to this section shall be referred to the planning commission for review and findings of fact. The planning commission shall review the appeal at its next regular meeting following the date the notice of appeal is received by the clerk of council, and shall report its findings to city council. The city council shall review the appeal within thirty (30) days after the date of the planning commission meeting, at a regular or a special meeting of city council.

(c) The city council shall consider evidence presented by the owner, the Administrator, and any other aggrieved person.

(d) The council shall render its decision in writing and may affirm, reverse or modify the administrator's decision. The council's decision shall constitute the final decision of the city on the matter(s) which are the subject of the appeal.

(e) Any person aggrieved by a final decision of the city council pursuant to this section shall have the right of review of such decision by the circuit court of the city. Any such appeal shall be filed by the aggrieved person in writing with the circuit court within thirty (30) days of the city council's final decision.

(f) For the purposes of this section, "aggrieved person" is limited to the owner, a permittee, owners of adjacent and downstream property and any interested governmental agency or officer thereof.

**Sec. 10-9. Compliance with chapter required prior to issuance of permits for development involving land disturbing activities.**

(a) A person shall not commence, conduct or engage in any land-disturbing activity until such person has submitted a permit application to the administrator and has obtained the administrator's approval of a permit authorizing commencement of land disturbing activity.

- (1) The applicant shall submit with the application for a permit:
  - a. a proposed erosion and sediment control plan;
  - b. a proposed stormwater management plan, if required;
  - c. a State General Permit registration statement, if required;
  - d. for the land that is proposed to be disturbed, (i) a valid, approved preliminary site plan that provides a layout, as defined in 9VAC25-870-10, or a valid approved site plan, (ii) a valid, approved preliminary subdivision plat that provides a layout, as defined in 9VAC25-870-10, or a valid, approved final subdivision plat, or (iii) for land use or construction not subject to the requirement of an approved site plan or subdivision plat, the applicant shall submit a written certification of the purpose of the proposed land disturbing activity together with a zoning administrator determination stating that the use sought to be established on the land is permitted under applicable zoning district regulations and will comply with applicable requirements of the city's zoning and other local ordinances;
  - e. any request for exception(s) from applicable technical requirements; and
  - f. payment of required application fee(s), pursuant to sec. 10-10.

The administrator shall not issue any approval(s) for commencement of any land-disturbing activity until all such required submissions and plans have been received and approved.

- (2) The administrator shall act on each plan included within the application, in accordance with the following:
  - a. The administrator, or any duly authorized agent of the administrator, shall promptly review the materials submitted with an application. The administrator or his agent shall determine the completeness of the application within 15 calendar days of receipt, in accordance with the procedure referenced in 9VAC25-870-108(B).
  - b. The administrator or his agent shall act on a plan within the time period(s) and in accordance with the procedures referenced within 9VAC25-870-108(B). However, when a proposed erosion and sediment control plan is determined to be inadequate, notice of disapproval, stating the specific reasons for disapproval, will be communicated to the applicant within 45 days.
  - c. Approval or denial of a plan shall be based on compliance with the requirements of this chapter. Any decision shall be communicated in writing

to the person responsible for the land-disturbing activity or the person's agent. Where available to the applicant, electronic communication will be deemed communication in writing. If a plan meeting all of the requirements of this chapter is submitted and no action is taken within the required time period, the plan shall be deemed approved. If a plan is not approved, the reasons for not approving the plan shall be provided in writing.

- d. When all requirements have been satisfied and all required plans have been approved, the administrator shall issue a consolidated stormwater management and erosion and sediment control permit, when all of the following requirements have been satisfied:
    1. Upon the development of an online reporting system by DEQ, but no later than July 1, 2014, the administrator shall not issue a permit to authorize any land disturbing activity until evidence has been obtained of State General Permit coverage, where required; and
    2. The administrator must receive the performance guarantee(s) and other instruments and documentation specified in subparagraphs (3) through (6), following below; and
    3. All fees required by sec. 10-10 shall be paid by the applicant.
- (3) Prior to issuance of any approval or permit, the administrator shall require (or in the case of an agreement in lieu of a plan, may require) the applicant to submit a reasonable performance bond with surety, a cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Administrator (individually, and collectively, "performance guarantee"), to ensure that measures could be taken by the city at the applicant's expense, upon the applicant's failure, after proper notice, within the time specified, to initiate or maintain appropriate actions which may be required of applicant by the approved plan(s) and permit(s) or permit conditions as a result of applicant's land-disturbing activity. Separate performance guarantees shall be established and required to assure compliance with the approved stormwater management plan and with the erosion and sediment control plan, except as provided in subparagraph (c), below.
- a. Each performance guarantee shall be effective from a date prior to the issuance of any permit or approval until sixty (60) days after completion of the requirements of approved plan(s) and permit(s) or permit conditions. . The instrument(s) of security shall provide that the performance guarantee for stormwater requirements shall be and remain in effect until satisfactory completion of all permit conditions has been achieved. Within 60 days of the satisfactory completion of the requirements of the permit conditions, such security, or the unexpended or unobligated portion thereof, if any, shall be refunded to the applicant or terminated.
  - b. If approved by the administrator , the applicant may submit any required performance guarantee as part of, or included in, any other performance guarantee(s) required in connection with a site plan, subdivision plat or other required approval. In cases where any such consolidated performance guarantee



is authorized, the administrator shall separately establish the specific amount(s) attributable to erosion and sediment control requirements, stormwater management requirements, construction of public facilities and improvements, and other activities for which a performance guarantee is to be provided.

- c. The instrument(s) of security shall provide the administrator and its authorized agents with a right of entry, for the purpose of initiating or maintaining appropriate actions that are required by the permit, or permit conditions associated with a land-disturbing activity when the applicant, a permittee, or other person responsible for carrying out the land disturbing activities or the requirements of a permit and permit conditions, after proper notice, has failed to take acceptable action within the time specified.
  - d. This requirement for performance bonding/ security is in addition to all other provisions and requirements of this article, state law and state Regulations, relating to the issuance of permits, and is not intended to otherwise affect the requirements for such permits.
  - e. If the administrator is required to take action upon a failure of the permittee, the administrator may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the performance guarantee held by the administrator.
  - f. The administrator may require submission of other materials and supporting documentation as the administrator deems necessary in order for the applicant to demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (4) Prior to issuance of any approval or permit for land disturbing activity involving one or more acres of land, the administrator shall require the applicant to submit a stormwater pollution prevention plan (SWPPP). The SWPPP shall include the content specified by 9VAC25-870-54, 9VAC25-870-55 and 9VAC27-870-56, as well as the requirements and general information specified by 9VAC25-880-70, Section II.
- a. The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
  - b. The SWPPP must be maintained by the operator at a central location at the site of the development. If no onsite location is available, notice of the SWPPP's location must be posted near the main entrance at the development site. Operators shall make the SWPPP available for public inspection in accordance with 9VAC25-880-70, Section II, either electronically or paper copy.
- (5) Except as provided in sec. 10-56(d), prior to issuance of any approval or permit for land disturbing activity associated with development for which permanent stormwater management facilities are required, the administrator shall require the applicant to submit a proposed written instrument, in a form suitable for recordation in the city's land records, specifying long-term responsibility for and maintenance of

the stormwater management facilities and other techniques specified within the proposed stormwater management plan for management of the quality and quantity of runoff.

(b) No site plan shall be granted final approval, and no final subdivision plat shall be signed by any city board, commission, agency, department, official or employee, unless and until such final site plan or final subdivision plat includes improvements, facilities and treatments identified within a stormwater management plan approved by the administrator in accordance with this chapter.

(c) No authorization or permit for any construction, land use or development involving any land-disturbing activity, including any grading permit, building permit, foundation permit, demolition permit, or other city-issued development permit, shall be issued by any city board, commission, agency, department, official or employee, unless and until a stormwater management plan has been approved and a permit has been issued by the administrator in accordance with this chapter.

#### **Sec. 10-10. Fees for review and approval of plans.**

(a) The city council will, from time to time, approve a schedule of the fees and charges associated with the various applications, actions, inspections, permits and approvals required by this chapter in connection with the review of plans, issuance of VSMP and VESCP Authority permits, issuance of State General Permit coverage, and implementation of the VSMP and VESCP related to land disturbing activities. Prior to the issuance of any permit authorizing commencement of any land disturbing activity, and prior to conducting any inspection or other action required by this chapter for which a fee is specified, the administrator shall assess, collect and administer the applicable fees and charges set forth within the most recent fee schedule adopted by city council.

(b) The city council hereby adopts and incorporates by reference the statewide fee schedule(s) enacted by the State Board pursuant to Virginia Code §62.1-44.15:28 and 9VAC25-870-700 et seq., and said fee schedule(s) shall be deemed included within the local fee schedule referenced in paragraph (a), above. Prior to the issuance of any permit authorizing the commencement of any land disturbing activity, the administrator shall assess, collect and administer the fees as set forth within 9VAC25-870-700-700 et seq., including, without limitation:

- (1) Fees for the modification or transfer of registration statements from the State General Permit issued by the State Board; provided, however, that if the State General Permit modifications result in changes to stormwater management plans that require additional review by the administrator, then, in addition to the State General Permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference between the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage. No such modification fee shall be assessed to (i) permittees who request Minor Modifications to a State General Permit, or (ii) permittees whose general permits are modified or amended at the initiative of

DEQ (excluding errors in the registration statement identified by the administrator and errors related to the acreage of the site); and

- (2) Annual fees for maintenance of the State General Permit, including fees on expired permits that have been administratively continued. State General Permit maintenance fees shall be paid annually to the city, on or before the anniversary date of general permit coverage. State General Permit maintenance fees shall apply, and shall continue to be paid, until State General Permit coverage is terminated. No permit will be reissued or automatically continued without payment of the required fee for State General Permit coverage.
- (3) Payment of the state's portion of the statewide permit fee shall not be required for coverage under the State General Permit, for construction activity involving a single-family detached residential structure, when such activity is exempted from such fee pursuant to regulations established by the State Board.

State General Permit coverage and maintenance fees may apply to each State General Permit holder. Persons whose coverage under the State General Permit has been revoked shall apply to DEQ for an Individual Permit for Discharges of Stormwater from Construction Activities. All persons seeking approval of a stormwater management plan, all persons seeking coverage under the State General Permit, and all permittees who request modifications to or transfers of their existing registration statement for coverage under a State General Permit, shall be subject to the fees referenced within this paragraph, in addition to any separate fees that may apply under paragraph (a) of this section.

(c) Fees shall be paid when due, by applicants, permittees, and other persons responsible for carrying out conditions of a permit. An incomplete payment will be deemed a nonpayment. Interest shall be charged for non-payments and for late payments, at the rate set forth in Virginia Code §58.1-15, calculated on a monthly basis at the applicable periodic rate. A ten percent (10%) late payment fee shall be charged to any delinquent account that is more than 90 days past due. The city shall be entitled to all remedies available under the Virginia Code in collecting any past due amount.

**Secs. 10-11—10-20. Reserved.**

**2. That City Code Chapter 10, Article II (Erosion and Sediment Control) be amended and re-ordained, as follows:**

### **DIVISION 1. IN GENERAL**

**Sec. 10-21. Purpose and authority; applicability.**

(a) The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of

soil erosion, sediment deposition and nonagricultural runoff, and by establishing procedures by which these requirements shall be administered and enforced.

(b) This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1 (State Water Control Law) article 2.4, Sec. 62.1-44.15:51 et seq. (Erosion and Sediment Control Law).

(c) This article shall apply to any land disturbing activity within the city, except that state agency projects shall be subject to the requirements of Virginia Code § 62.1-44.15:56. Each owner of land within the City shall comply with the requirements of this article, as provided herein:

- (1) Prior to engaging in any land disturbing activity, or allowing any land disturbing activity to occur, on such owner's property;
- (2) At all times during any land disturbing activity until it is completed, including all times when the land disturbing activity is performed by a contractor engaged in construction work; and
- (3) When notified by the administrator that an erosion impact area exists on such owner's land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.

(d) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to "this article", and references to "provisions of this article" shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and II of this chapter.

#### **Sec. 10-22. Determination of land disturbing activity.**

(a) The determination of whether an activity is a land disturbing activity for purposes of this article shall be made by the administrator. Except as may otherwise be required by federal or state law or regulations, the term "land disturbing activity" shall not include:

- (1) Disturbed land areas of less than 6,000 square feet;
- (2) Home gardens, individual home landscaping, repairs or maintenance work;
- (3) Individual service connections; administrator
- (4) Installation, maintenance, or repair of any underground public utility lines, when such activity occurs on an existing hard surfaced road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk that is hard surfaced;

- (5) Septic tank lines or drainage fields, unless included in an overall plan for land-disturbing activity relating to construction of a building to be served by the septic tank system;
  - (6) Surface or deep mining operations and projects, or oil and gas operations and projects, conducted in accordance with a permit issued pursuant to Code of Virginia Title 45.1; however, such activities shall not be conducted unless allowed by the city's zoning ordinance;
  - (7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Code of Virginia § 10.1-1100 *et seq.*, or is converted to bona fide agricultural or improved pasture use, as described in subsection B of § 10.1-1163. Such activities shall not be conducted unless allowed by the city's zoning ordinance.
  - (8) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 *et seq.*), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. Such activities shall not be conducted unless allowed by the city's zoning ordinance.
  - (9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;
  - (10) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles;
  - (11) Shoreline erosion control projects on tidal waters when all of the land-disturbing activities are within the regulatory authority of and approved by local wetlands boards, the Marine Resources Commission, or the United States Army Corps of Engineers; however, any associated land that is disturbed outside of this exempted area shall remain subject to this article and the regulations adopted pursuant thereto; and
  - (12) Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if there were no emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this article.
- (b) Upon the determination by the administrator that an activity is a land disturbing activity the owner shall submit an erosion and sediment control plan to the administrator for review and approval, and shall otherwise take all actions necessary to comply with the requirements of this article.
- (c) Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the administrator may either:

- (1) Consider the off-site activity as being part of the proposed land-disturbing activity; or
- (2) If the off-site activity is already covered by an approved erosion and sediment control plan, the administrator may require the applicant to provide proof of such approval and to certify that the plan will be implemented in accordance with the requirements of this article.

(d) An erosion and sediment control plan shall be submitted and approved for a development and the buildings constructed within, regardless of the phasing of construction.

#### **Sec. 10-23. Determination of erosion impact area.**

(a) In order to prevent further erosion, the administrator may require submission and approval of an erosion and sediment control plan for any land determined to be an erosion impact area, regardless of the size of such area. The determination of whether an erosion impact area exists shall be rendered by the administrator.

(b) The administrator shall determine whether an erosion impact area exists on a property. The administrator shall make this determination after an investigation initiated by the administrator or upon the complaint of any citizen.

(c) Upon making a determination that an erosion impact area exists, the administrator shall immediately notify the owner of the property, in writing, of the determination. The notice shall be served by certified mail to the address of the owner based on the most recent tax records of the city, or by personal delivery. The written notice shall (i) instruct the owner to submit an erosion and sediment control plan for review and approval as provided in this article, and (ii) state the date by which the plan must be submitted.

(d) Upon receipt of the notice required by this section the owner shall submit to the administrator for approval an erosion and sediment control plan designed to prevent further erosion, and the owner shall in all other aspects comply with the requirements of the notice and of this article. The owner shall not permit any portion of the land that is the subject of the notice to remain in a condition such that soil erosion and sedimentation causes reasonably avoidable damage or harm to adjacent or downstream property, roads, streams, lakes or ponds.

(e) For good cause shown, the administrator may grant to an owner an extension of time to comply with the requirements of this section and this article.

#### **Secs. 10-24—10-30 Reserved.**

### **DIVISION 2. EROSION AND SEDIMENT CONTROL PLAN FOR LAND-DISTURBING ACTIVITIES**

#### **Sec. 10-31. Permit required for land disturbing activities.**

No person shall engage in any land-disturbing activity within the city until an erosion and sediment control plan has been approved and a land disturbing permit has been issued by the Administrator in accordance with Sec. 10-9 of the city code. The land disturbing permit is

required in addition to any other approval required by this chapter, by the city's zoning or subdivision ordinances, or from the city's building official (including, without limitation, any building permit, foundation permit, or demolition permit).

**Sec. 10-32. Responsibilities of owner of land when work to be conducted by contractor.**

Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

**Sec. 10-33. Conformity to state handbook and regulations.**

Pursuant to Code of Virginia § 62.1-44.15:54 the city hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the state Board, and the City's Design and Standards Manual, 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 for erosion and sediment control are included in but not limited to the Virginia Erosion and Sediment Control Regulations set forth within the Virginia Administrative Code at 9VAC25-840-10 et seq. and the Virginia Erosion and Sediment Control Handbook, including all amendments thereto. The regulations, references, guidelines, standards and specifications referenced within this paragraph shall be used (i) by an applicant when preparing and submitting an erosion and control plan for review and approval of the administrator under the provisions of this article, and (ii) by the administrator, in considering the adequacy of a submitted plan.

**Sec. 10-34. Fees.**

Fees shall be submitted at the time of filing any erosion and sediment control plan, and thereafter, as specified within the most recent fee schedule approved by city council. Each re-submission of a plan following rejection by the administrator shall constitute a new application requiring an additional application fee.

**Sec. 10-35. Erosion and sediment control plan.**

(a) No person shall engage in any land-disturbing activity until such person has submitted to the administrator for review and approval an erosion and sediment control plan, along with an application for a land disturbing permit in accordance with article I.

(b) The owner shall submit four (4) copies of an erosion and sediment control plan that satisfies the requirements of this section, and a certification stating that all requirements of the approved plan will be complied with.

(c) The standards contained within the Regulations, and within the Virginia Erosion and Sediment Control Handbook, as amended, and the City's Standards and Design Manual, shall be used by the applicant in preparing and submitting an erosion and sediment control plan. .

(d) The administrator may require additional information as may be necessary for its complete review of the plan.

(e) In lieu of paragraphs (b)-(d), above, where land disturbing activity will involve land under the jurisdiction of more than one locality's program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the state Board or its agent (DEQ) for review and approval, rather than to each locality.

(f) In lieu of paragraphs (b)-(d), above, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the DEQ for review and approval consistent with guidelines established by the Board.

(g) Pursuant to Virginia Code § 62.1-44.15:55(D), electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies shall, and railroad companies shall, and authorities created pursuant to Code of Virginia § 15.2-5102 may, file general erosion and sediment control specifications annually with the Board for review and approval.

#### **Sec. 10-36. Review and approval of erosion and sediment control plan.**

Each erosion and sediment control plan submitted pursuant to this article shall be reviewed and approved as provided herein:

- (1) The plan shall be submitted along with the application required by sec. 10-9 of article I, and shall be reviewed by the administrator to determine its compliance with the requirements of this article and with applicable state laws and regulations.
- (2) During review of the plan the administrator may correspond with the owner from time to time to review and discuss the plan with the owner, and may require additional information from the owner as necessary in order for the plan to be approved.
- (3) -The administrator shall review erosion and sediment control plans submitted, and shall either grant written approval or written notice of disapproval in accordance with the time periods and other requirements set forth within Code of Virginia § 62.1-44.15:55 and article I of this chapter.
- (4) Applicants for land-disturbing permits may be required to provide a performance bond, cash escrow or other financial guarantee, determined in accordance with Sec. 10-9 of this chapter, to ensure that measures could be taken by the administrator at the applicant's expense should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate measures required by the approved erosion and sediment control plan as a result of applicant's land-disturbing activity.
- (5) If the owner is required to obtain approval of a site plan or subdivision plat for a development, the administrator shall not approve an erosion and sediment control



plan or authorize the commencement of any land disturbing activity, unless and until the site plan or plat has received final approval as provided by law. Notwithstanding the foregoing, the administrator may approve an erosion and sediment control plan and may authorize commencement of land disturbing activity, prior to approval of a required final site plan or final subdivision plat only in the following circumstances:

- a. To correct any existing erosion or other condition conducive to excessive sedimentation which is occasioned by any violation of this chapter or by accident, act of God, or other cause beyond the control of the owner, provided that the activity proposed shall be strictly limited to the correction of such condition;
- b. To install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have previously been approved by the operating public utility or public service corporation and have previously been approved by the city as being substantially in accord with the comprehensive plan, where required by Code of Virginia § 15.2-2232.

#### **Sec. 10-36.1. Variances.**

The administrator may waive or modify any of the standards that are deemed 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 administrator 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 administrator. The administrator shall respond in writing either approving or disapproving such a request. If the administrator does not approve a variance within ten (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 administrator shall consider variance requests judiciously, keeping in mind both the need of an applicant to maximize cost effectiveness and the public interest and need to protect off-site properties and resources from damage.

#### **Sec. 10-37. Agreement in lieu of a plan.**

(a) If land disturbing activity is for the purpose of establishing or modifying a single family detached dwelling, then, in lieu of an erosion and sediment control plan, the administrator may enter into a contract with the property owner that specifies conservation measures that must be implemented in the construction of the single-family dwelling.

(b) In determining whether to allow an agreement in lieu of a plan, the administrator shall consider the potential threat to water quality and to adjacent land resulting from the land disturbing activity, as well as applicable provisions of state law and regulations. When an agreement in lieu of a plan is authorized and approved by the administrator, the administrator and the owner shall have all of the rights, responsibilities and remedies set forth in this article as though such agreement in lieu of a plan was an erosion and sediment control plan.

(c) The administrator may waive the requirement for a responsible land disturber holding a certificate of competence, in connection with an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and shall provide the name of an responsible land disturber holding a certificate of competence, as provided by Code of Virginia § 62.1-44.15:55.

#### **Sec. 10-38. Amendment of approved plan.**

The administrator may require changes to an approved erosion and sediment control plan, and require an owner to submit an amended plan, in the following circumstances:

- (1) An inspection reveals that the plan is inadequate to satisfy the requirements of this article;
- (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 article are agreed to by the administrator and the person responsible for carrying out the plan; or
- (3) In the event that land disturbing activity has not commenced during the 180 -day period following plan approval, or if land disturbing activity pursuant to an approved plan has ceased for more than 180 days, the administrator may evaluate the existing approved erosion and sediment control plan to determine whether the plan still satisfies the requirements of this article and state erosion and sediment control criteria, and to verify that all design factors are still valid. If the administrator finds the previously approved plan to be inadequate, a modified plan shall be submitted for approval by the administrator prior to the commencement or resumption of land-disturbing activity.

#### **Sec. 10-39. Duty to comply, maintain and repair.**

Upon approval by the administrator of an erosion and sediment control plan, each owner shall:

- (1) Comply with the approved plan when performing, or allowing to be performed, any land disturbing activities, or activities to correct an erosion impact area;
- (2) Maintain and repair all erosion and sediment control structures and systems to ensure continued performance of their intended function;

- (3) Comply with all requirements of this article, and with applicable state laws and regulations; and
- (4) Provide the name of a responsible land disturber, as defined in article I of this chapter, who will be in charge of and responsible for carrying out the land disturbing activity.

**Sec. 10-40. Inspection and monitoring.**

(a) As a condition of approval of an erosion and sediment control plan, the administrator may require the person responsible for carrying out the plan to monitor the land-disturbing activity as provided herein:

- (1) Any monitoring conducted shall be for the purpose of ensuring compliance with the erosion and sediment control plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (2) The condition requiring monitoring and reporting shall state: (i) the method and frequency of such monitoring, and (ii) the format of the report and the frequency for submitting reports.
- (3) The person responsible for carrying out the plan will maintain records of 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 administrator shall periodically inspect the land disturbing activity in accordance with 9VAC25-840-60, to assure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation as provided herein. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.

- (1) Monitoring, reports and inspections required by the administrator shall be conducted in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58 and 62.1-44.15:60, and applicable provisions of state regulations.
- (2) If the administrator determines that there is a failure to comply with the approved plan, notice shall be served on the permittee or person responsible for carrying out the plan, in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58. Upon failure to comply within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.
- (3) Upon determination of a violation of this ordinance the administrator may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. In cases where the alleged noncompliance is causing

or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply. Any such order shall be served in the same manner as a notice to comply. A stop-order shall have the effects, shall remain in effect, as set forth within Code of Virginia §§ 62.1-44.15:58. Upon completion and approval of corrective action, or obtaining an approved plan and any required permits, the order shall be lifted. Upon failure to comply with any such order within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.

- (4) Any person violating or failing, neglecting or refusing to obey an order issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of the City of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.
- (5) Nothing in this section shall prevent the administrator from taking any other action authorized by this ordinance. Sec. 10-41. Determination of noncompliance with plan; stop work orders.

Upon a determination by the administrator that an owner has failed to comply with an approved erosion and sediment control plan, the administrator shall provide notice to a permittee or person responsible for carrying out the erosion and sediment control plan, and may issue an order requiring that all or part of the land-disturbing activities be stopped, in accordance with the provisions of Code of Virginia § 62.1-44.15:58 and applicable state regulations

**Sec. 10-42. Program personnel requirements.**

- (a) An erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer.
- (b) Inspections of land-disturbing activities shall be conducted by a certified inspector.
- (c) The city's erosion and sediment control program may be carried out by one or more persons; however, at all times the city's program, at a minimum, shall consist of a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.
- (d) The certifications required by this section shall be those granted by the state Board, as set forth within Code of Virginia § 62.1-44.15:53.

**Sec. 10-43. Penalties, injunctions and other legal actions.**

- (a) Any person violating the provisions of this article shall, upon conviction, be guilty of a Class 1 misdemeanor.
- (b) The following may apply to the circuit court for injunctive relief to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist:

- (1) The city; and
- (2) The owner of property that has sustained damage or that is in imminent danger of being damaged; however, an owner of property shall not apply for injunctive relief unless (i) owner has notified in writing both the administrator and the person who has violated the provisions of this article, that a violation of this article has caused, or creates a probability of causing, damage to owner's property, and (ii) neither the person who has violated this article nor the administrator has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to the owner's property.

(c) In addition to any criminal penalties provided under this section, any person who violates any provision of this article may be liable to the city in a civil action for damages.

(d) Any person who violates any provision of this ordinance shall, upon a finding of the Charlottesville General District Court, be issued a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000. The civil penalty for violations listed within the schedule set forth following below shall be as set forth within the schedule. The administrator may issue a summons for collection of any civil penalty.

- (1) There is hereby established a schedule of civil penalties for certain violations of this ordinance, and any civil penalty assessed by a court to a person who is found to have violated the sections referenced in the schedule shall be in accordance with the schedule.

Schedule of Violations Subject to Prescribed Civil Penalties	Section	Penalty
Additional measures - failure to install additional measures as deemed necessary by the administrator or his inspector once work has commenced	10-38	\$100.00
Bond - failure to obtain bond	10-36	\$100.00
E&S plan - failure to submit if required by administrator	10-35	\$1000.00
E&S plan - failure to comply with approved plan	10-35 10-39	\$500.00
Corrections - failure to comply with mandatory corrections as issued on an E&S inspection notice or report	10-40	\$500.00

Existing conditions - failure to submit plan or provide controls after receipt of notice	10-21 10-23	\$500.00
Inspection - failure to request at the time(s) required by approved plan	10-39 10-24	\$100.00
Land disturbing permit or approved plan - commencement of land disturbing activities without an approved permit or plan	10-31	\$1,000.00
Land disturbing permit or approved plan - failure to comply with provisions	10-39	\$500.00
Live waterway - causing silt or debris to enter when engaged in land disturbing activity without an approved plan and permit	10-31	\$500.00
Stop work order - failure to cease work after issuance	10-40	\$1000.00

(2) 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 ten thousand dollars (\$10,000.00), except a series of violations arising from the commencement of land-disturbing activities without an approved plan for any site. The assessment of a civil penalty pursuant to this subsection (d) shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor. In any trial for a scheduled violation, it shall be the burden of the city to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose.

(e) Without limiting the remedies which may be obtained under 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 two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the city against such person.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the administrator; any condition of a permit; or any provision of this article or associated regulations, the administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed two thousand dollars (\$2,000.00). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (d) or (e) of this section.

(g) Any civil penalties assessed by a court pursuant to this section shall be paid into the city treasury. However, where the violator is the locality itself, or its agent, the court shall direct the penalty to be paid into the state treasury.

**Secs. 10-44—10-49. Reserved.**

**2. That City Code Chapter 10, Article III (Stormwater Management) is hereby repealed, and replaced with the following provisions:**

**Sec. 10-50. Intent, purpose and authority.**

(a) Pursuant to Virginia Code §§ 62.1-44.15:27 and 9VAC25-870-20, this article is adopted to establish a Virginia Stormwater Management Program that will integrate stormwater management requirements with the city’s erosion and sediment control program, the city’s MS4 permit, flood insurance, flood plain management, and related federal and state permits and requirements, into a unified program. This unified program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities into a more convenient and efficient manner for both the city and those responsible for compliance.

(b) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to “this article”, and references to “provisions of this article” shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and III of this chapter.

**Sec. 10-51. Land disturbing permit required; exemptions.**

(a) No person shall engage in any land-disturbing activity until a stormwater management plan has been approved and a land disturbing permit has been issued by the Administrator in accordance with Sec. 10-9 of the city code.

(b) Except as may otherwise be required by federal law, the following activities are exempt from the provisions of paragraph (a), above:

- (1) Where such uses are permitted by the City's zoning regulations: permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Where such uses are permitted by the City's zoning regulations: the clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
- (3) Where such use is permitted by the City's zoning regulations: single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
- (4) Land disturbing activities that disturb less than six thousand (6,000) square feet of land area, but only if the land area to be disturbed is not part of a common plan of development or sale;
- (5) Discharges to a sanitary sewer or a combined sewer system;
- (6) Activities under a state or federal reclamation program to return an abandoned property to an open land use, or to an agricultural use where permitted by the City's zoning ordinance;
- (7) Routine maintenance performed to maintain the original line and grade, hydraulic capacity, or original construction of a 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 subparagraph; and
- (8) Land disturbing activities conducted 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 Administrator shall be advised of the disturbance within seven (7) days of the commencement of the land-disturbing activity and compliance with the administrative requirements of this chapter is required within 30 days of commencing the land-disturbing activity.

**Sec. 10-52. Stormwater management program established.**



Pursuant to Virginia Code §§ 62.1-44.15:27 and 62.1-44.15:49, the city hereby establishes a Virginia stormwater management program (VSMP) for land-disturbing activities and adopts the Regulations promulgated by the Board, specifying standards and specifications for such programs. No grading, building, or other city permit, shall be issued for a property unless a permit has been issued by the administrator pursuant to Sec. 10-9 of this chapter.

**Sec. 10-53. Stormwater management plan required; contents.**

(a) A person shall not commence, conduct, or engage in any land disturbing activity until such person has submitted a stormwater management plan to the Administrator as part of the application required by sec. 10-9 and has obtained approval of the plan and a permit from the Administrator authorizing the commencement of land disturbing activity.

(b) Every stormwater management plan shall apply the stormwater management technical criteria set forth in sec. 10-54 to the entire land-disturbing activity. Individual lots within new residential, commercial or industrial subdivisions and developments shall not be considered separate land-disturbing activities, and the stormwater management plan for the entire subdivision or development shall govern the development of the individual parcels, including parcels developed under any subsequent owner(s).

(c) Every stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff; and shall include the following:

- (1) A general description of the proposed stormwater management facilities and the mechanism through which the permanent facilities will be operated and maintained after construction is complete;
- (2) Contact information, including the name, address, and telephone number of the owner and the city tax map reference(s) and parcel number(s) of the property on which the land disturbing activity is to be conducted;
- (3) A narrative that includes (i) a description of current site conditions and (ii) a description of final site conditions upon completion of development;
- (4) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the pre-development and post-development drainage areas;
- (5) Information on the proposed stormwater management facilities, including:
  - (i) The type of facilities;
  - (ii) Location, including the address, latitude and longitude, and the sixth order hydrologic unit code in which the facilities are located;
  - (iii) Total area (expressed as acreage) treated;

- (iv) Impervious area (expressed as acreage) treated;
  - (v) Amount of pollutants removed (expressed as a number of pounds of phosphorous per year); and
  - (vi) The surface waters or karst features, if present, into which the facility will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics;
- (7) Documentation and calculations verifying compliance with applicable water quality and quantity requirements. All stormwater runoff controls shall be designed and installed in accordance with the water quality and water quantity design criteria specified in sec. 10-54, and any additional standards or criteria set forth within the City's Standards and Design Manual;
- (8) A map or maps of the site that depicts the topography and other characteristics of the entire area of the land disturbing activity and proposed development, including:
- (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 development site on such adjacent parcels;
  - (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
  - (vii) Proposed buildings, roads, parking areas, paved surfaces, utilities, and stormwater management facilities;
  - (viii) Proposed land use(s), with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, streets, paved areas, and public and private easements; and
  - (ix) A description of the proposed timing and/or phasing of land disturbing activities and development.

The land area depicted in the map shall include all land within the limits of a valid, approved preliminary or final site plan, or a valid, approved preliminary or final subdivision plat, for the proposed development, and the proposed land use(s) and improvements shown on such site plan or subdivision plat shall be the same as those depicted within the map.

- (9) Any other information, materials, requirements or provisions required by state Regulations, including, without limitation, 9VAC25-870-55 and the City's Standards and Design Manual.

- (10) If an operator intends to meet water quality and/or quantity requirements through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included and the requirements of Virginia Code §62.1-44.15:35 must be satisfied. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity, except as otherwise allowed by Virginia Code § 62.1-44.15:35.
- (11) Signature and seal by a professional, if any elements of the stormwater management plan includes activities within the scope of the practice of architecture, land surveying, landscape architecture, or engineering, or other activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Virginia Code.

(d) If land disturbing activity is for the purpose of establishing or modifying an individual single family detached dwelling, then, in accordance with applicable state Regulations, the administrator may enter into an agreement in lieu of a plan with a property owner. Any such agreement in lieu of a stormwater management plan shall refer to specific measures that shall be implemented by the property owner to comply with the requirements of this article for the construction of the dwelling.

**Sec. 10-54. 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, the city hereby adopts the following technical criteria:

- (1) The technical criteria set forth in Part II B of the Regulations, as amended, §§ 9VAC25-870-62 *et seq.* (“Part II B Technical Criteria”); and
- (2) The technical criteria set forth in Part II C of the Regulations, as amended, §§ 9VAC25-870-93 *et seq.* (“Part II C Technical Criteria”).

(b) The Part II B Technical Criteria shall apply to all regulated land disturbing activities, except as expressly set forth in subparagraphs (c) through (h), following below.

(c) Land disturbing activity shall be subject to the Part II C Technical Criteria, if coverage under the State General Permit was obtained, or land disturbance was otherwise lawfully commenced, prior to July 1, 2014.

(d) Land disturbing activity shall be considered grandfathered, and therefore subject to the Part II C Technical Criteria, as set forth within the provisions of 9VAC25-870-48.

(e) The Administrator may grant exceptions to the Part II B Technical Criteria or Part II C Technical Criteria, provided that (i) the exception is the minimum necessary to afford relief; (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this article are preserved; (iii) granting the exception will not confer any special privileges, and (iv) exception requests are not based upon conditions or circumstances

that are self-imposed or self-created. Economic hardship alone is not sufficient reason or justification for granting an exception. Notwithstanding the foregoing, the Administrator shall not have authority to approve the following:

- (1) Waiver of the requirement of a permit for any land disturbing activity;
- (2) Permission to use any BMP not found on the Virginia Stormwater BMP Clearinghouse Website; or a waiver or exception to the requirement for any control measure specifically approved by the Director of DEQ or the Board, except in accordance with Virginia Code §62.1-44.15:33(C). Notwithstanding the foregoing, the Administrator may approve the use of BMPs not found on the Virginia Stormwater BMP Clearinghouse Website for projects less than one (1) acre in size; or
- (3) Exceptions to, or waiver of, post-development nonpoint nutrient runoff compliance requirements, unless the Administrator determines that offsite options permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(f) Nothing in this section shall preclude construction of a stormwater management facility or BMP, or implementation of any technique or practice, to a more stringent standard at the developer's option.

**Sec. 10-55. Permit conditions.**

(a) Every land disturbing permit approved by the Administrator for activities regulated by this article shall be subject to the following conditions, which shall be deemed incorporated into such permit, as if set forth therein verbatim:

- (1) The permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment;
- (2) The permittee shall at all times conduct land disturbing activities in accordance with the approved stormwater management plan and, when required, the SWPPP and all of its component parts and requirements;
- (3) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and all related appurtenances, that are constructed, installed or used to achieve compliance with the requirements of this article and the approved stormwater management plan. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures;
- (4) The permittee shall promptly furnish to the Administrator any information that the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit, or to determine the effect of a discharge on the quality of state waters, or such other information as the Administrator deems necessary to accomplish the purposes of this article;

- (5) The permittee shall allow the Administrator, or an authorized representative, to:
  - (i) Enter upon the site where regulated land disturbing activity or stormwater management facility is located, or where records are required to be kept;
  - (ii) Have access to and copy, at reasonable times, any records kept by the permittee in relation to the conduct and operations of any land disturbing activity and the design, specifications, installation, construction, and operation of stormwater management facility;
  - (iii) Sample or monitor, at reasonable times, for the purposes of determining compliance with requirements of this article, any substances or parameters at any location within the site;
- (6) Samples and measurements taken by the permittee for the purpose of monitoring shall be representative of the monitored activity. Monitoring results must be conducted according to test procedures and methods accepted by the State; analysis or analyses required to be performed by a laboratory shall be performed by an environmental laboratory certified under regulations adopted by the State's Department of General Services. Monitoring results shall be reported to the Administrator on a Discharge Monitoring Report (DMR) Form provided by the Administrator. If the permittee monitors any pollutant more frequently than required, using test procedures accepted by the State, the results of such monitoring shall be included in the calculation and reporting of data submitted within a required Discharge Monitoring Report;
- (7) The permittee shall retain records of all monitoring, including all monitoring information, calibration and maintenance records, and original strip chart recordings for continuous monitoring instrumentation, copies of monitoring reports, and records of all data used to complete any submission required by this article. In addition to the foregoing, records of monitoring shall include:
  - i. Date, exact place, and time of sampling or measurements;
  - ii. Identity of the individual(s) who performed the sampling or measurements;
  - iii. The date(s) on which analyses were performed;
  - iv. The analytical technique(s) or method(s) used;
  - v. Results of analysis/ analyses; and
  - vi. Copies of Discharge Monitoring Reports.
- (8) The permittee shall give advance notice to the Administrator:
  - i. of any planned physical alteration(s) or addition(s) to the site or to the stormwater management facilities described within the permit, when such alteration(s) or addition(s) may meet State criteria for determining whether a facility is a new source, or when such alteration(s) or addition(s) could significantly change the nature of, or increase the quantity of, pollutants discharged.
  - ii. of any planned changes to the stormwater management facilities described within the permit, and
  - iii. of any activity that may result in noncompliance with the requirements of this article or with any of the conditions set forth within this section;
- (9) The permit issued by the Administrator is not transferable to any other person, unless the permittee provides evidence to the Administrator that the requirements of

- 9VAC25-870-620 have been satisfied in relation to a transfer of any required State General Permit;
- (10) Reports of compliance or noncompliance with, or any progress reports in regard to, any compliance schedule established by the Administrator shall be submitted no later than 14 days following each schedule date;
  - (11) The permittee shall immediately report any noncompliance which may endanger health or the environment. Information regarding any such noncompliance shall be provided orally within 24 hours after the permittee becomes aware of the circumstances. The oral report shall be followed by a written report, which must be received by the Administrator no later than 5 days after the permittee became aware of the circumstances. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. Examples of noncompliance that require reports pursuant to this condition include, without limitation: any unanticipated bypass that exceeds an applicable effluent limitation; any upset that exceeds an applicable effluent limitation; and violation of a maximum daily discharge limitation for any pollutants required by the State to be reported within 24 hours.
  - (12) Any noncompliance not reported under conditions (9) or (10), above, shall be reported by the permittee to the Administrator in writing at the time the next monitoring report is submitted to the Administrator. The report of noncompliance shall contain the same information required for reports made pursuant to condition (10), above;
  - (13) Where the land disturbing activity is also subject to coverage under the State General Permit, or other State permit, the permittee shall comply with all conditions and requirements of such state permit(s), including, without limitation, those conditions set forth within 9VAC25-870-430. The permittee shall provide to the Administrator copies of submissions, reports, and information required to be given to the State, simultaneously with transmittal to the State. In addition to any remedies under state law and the Regulations, state permit noncompliance shall be grounds for enforcement action under this article, and for termination, revocation, reissuance or modification of the permit issued by the administrator pursuant to sec. 10-9 of article I;
  - (14) All applications, reports and information submitted to the Administrator shall be signed and certified in the manner, and by such person(s) prescribed within 9VAC25-870-370;
  - (15) In the event the permittee becomes aware that it failed to submit any relevant facts in any application to the Administrator for a permit, or that it submitted incorrect information to the Administrator in any application, or any other submission, report, or document required by this article, the permittee shall promptly submit the relevant facts or correct information to the Administrator;
  - (16) All stormwater management control devices and facilities, and other techniques for management of the quality and/or quantity of stormwater runoff, shall be designed, installed, implemented, constructed and maintained in accordance with the approved

stormwater management plan approved for the development and all other applicable requirements of this article; and

- (17) The permit issued by the Administrator may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a modification, revocation and reissuance or termination, or a notification of planned changes or anticipated noncompliance, shall not operate as a stay of the permittee's obligation to perform the requirements of any condition referenced in this section.

(e) Within 60 days of the completion of the requirements of all of the permit conditions, the performance guarantee required by sec. 10-9(3), or the unexpended or unobligated portion thereof, will be refunded or terminated.

**Sec. 10-56. Long-term maintenance of permanent stormwater facilities.**

(a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of stormwater. Such requirements shall be set forth in an instrument recorded in the local land records prior to permit issuance. Every such instrument shall:

- (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;
- (2) Include an express statement that the maintenance responsibility shall run with the land;
- (3) Provide a right of ingress and egress to and from stormwater management facilities and other techniques, sufficient to provide all necessary access to the property for purposes of maintenance and regulatory inspections;
- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
- (5) Clearly recognize a right of enforcement by all appropriate public bodies, including state and local authorities.

(b) Except as provided below, the City shall have no responsibility for maintenance or repair of stormwater management facility, BMP or other technique (individually and collectively, a "facility") designed and implemented to manage the quality and quantity of stormwater. Acceptance or approval of an easement, subdivision plat, site plan or other plan of development shall not constitute acceptance by the city or the Administrator of responsibility for the maintenance, repair or replacement of any such facility. As used in this paragraph, "maintenance, repair or replacement" shall include, without limitation, cleaning of the facility, maintenance of property adjacent to the facility, installation, repair or replacement of fencing surrounding a facility, and posting of signs indicating the name of the entity responsible for maintenance of the facility.

- (1) In the event that any common interest community, as defined in Virginia Code §55-528, desires to cede or transfer responsibility for maintenance, repair and replacement of a stormwater management facility, or other technique for management of the quality and quantity of stormwater, to the city, (i) the common interest community and city council must enter into a written contract, or other instrument, executed by both parties, and (ii) prior to execution of any contract or instrument, the city council shall have accepted the responsibility ceded or transferred by the common interest community by resolution.
- (2) In the event that any person, including any entity other than a common interest community, desires to cede or transfer responsibility for maintenance, repair and replacement of a facility to the city, the process for the city's approval and acceptance of such responsibility shall be the same as specified in subparagraph (b)(1), preceding above.

(c) No facility shall be identified on any subdivision plat, site plan or other plan of development, as being dedicated for public use, unless such facility is to be constructed as part of the city-owned and –operated public storm sewer system, and is subject to a performance guarantee requiring the facility to be designed and constructed in accordance with city standards.

(d) If the Administrator (i) has developed a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which such facilities are located, and (ii) is satisfied that there an enforceable mechanism exists by which future maintenance of such facilities will be addressed, then the recorded instrument referenced in paragraph (a), above, need not be required for stormwater management facilities designed for and implemented to treat stormwater runoff from such individual residential lot.

#### **Sec. 10-57. Monitoring and inspections; information.**

(a) The Administrator, or any authorized agent of the Administrator, shall inspect land-disturbing activity during construction for:

- (1) Compliance with the approved erosion and sediment control plan;
- (2) Compliance with the approved stormwater management plan and applicable permit conditions;
- (3) Development, modification, updating, and implementation of a SWPPP, including, without limitation, any component pollution prevention plan, when required; and
- (4) Development, modification, updating, and implementation of any additional control measures necessary to address a TMDL.



(b) Following completion of the installation or construction of stormwater management facilities, the Administrator shall conduct periodic inspections, to determine whether measures are being maintained as provided in the approved plan, or to investigate a complaint pertaining to the plan. Such post-construction inspections shall be conducted by the Administrator at least once every five (5) years.

(c) A construction record drawing shall be submitted to the Administrator upon completion of the installation or construction of any permanent stormwater management facility or facilities, including, without limitation, permanent BMPs. The construction record drawing shall be signed and sealed by a licensed professional, as defined in sec. 10-5, and shall contain a certification of such professional that the stormwater management facility or facilities have been constructed in accordance with the approved stormwater management plan.

(d) Consistent with the authority conferred within Virginia Code §62.1-44.15:39, the Administrator, or an authorized agent of the Administrator, may, at reasonable times and under reasonable circumstances, enter any site or property, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.

(e) The Administrator may also enter any establishment or upon any property, public or private, at reasonable times and under reasonable circumstances, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity, when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(f) Pursuant to Virginia Code §62.1-44.15:40, the Administrator may require every permit applicant or permittee, any operator, or any other person subject to permit requirements, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.

**Sec. 10-58. Modification of approved stormwater management plans.**

(a) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during any inspection.

(b) Any modification(s) of an approved stormwater management plan shall be allowed only after review and written approval of the Administrator. Following receipt of a complete request, supported by such information deemed necessary by the Administrator to determine compliance with the requirements of this article and article I, the Administrator shall have 60 days to act on the request, either by approval or by disapproval set forth in writing. The Administrator's review and decision shall be based on the requirements set forth within the Regulations, and those set forth within this article and within article I.

**Sec. 10-59. Enforcement.**

(a) If the Administrator determines that there is a failure to comply with a permit or any permit conditions, or if the Administrator determines there is an unauthorized discharge, the Administrator shall serve notice upon the permittee or other person responsible for carrying out the permit conditions, by any of the following: verbal warnings, written inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by mailing with confirmation of delivery to the address specified in the permit application, or by delivery at the site of the land disturbing 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, or the permit may be revoked by either the Administrator or the Board.
- (2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the Administrator may issue an order (“stop work 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. A stop work order shall be in writing, and shall become effective upon service on the person (i) by mailing, with confirmation of delivery, sent to the person’s address specified in the land records of the city, or (ii) by personal delivery by an agent of the Administrator. However, if the Administrator finds that any 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 is otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency stop work 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 a stop work order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with this section.

(b) Any person violating or failing, neglecting, or refusing to obey any provision of this article, any order issued hereunder, or any permit condition, may be compelled in a proceeding instituted in the circuit court for the city of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy, as set forth within Virginia Code §§62.1-44.15:42 and 62.1-44.15:48(D). If the Administrator applies to a court to enjoin a violation or a threatened violation of the provisions of this article, the Administrator shall not be required to show that an adequate remedy at law exists.

(c) A person who violates this article may be subject to criminal prosecution and criminal penalties, as follows:

- (1) Any person who willfully or negligently violates any provision of this article, any regulation or order of the Board, any order of the Administrator, any order of DEQ, any permit condition, or any order of a court, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$32,500, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.
- (2) Any person who knowingly violates any provision of this article, any regulation or order of the Board, any order of the Administrator or of DEQ, or any permit condition, or any order of a court issued as herein provided, or who knowingly makes any false statement in any application, form or submission required by this article, or who knowingly renders inaccurate any monitoring device or method required to be maintained, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury, or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 or more than \$50,000 for each violation. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.
- (3) Any person who knowingly violates any provision of this article, and who knows at that time that he or she thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years or more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this provision, be sentenced to pay a fine not exceeding the greater of one million dollars (\$1 million) or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment, for any subsequent conviction of the same person under this provision.

(d) Any person who violates any provision of this article, any order issued hereunder, or any permit condition, shall be subject to a civil penalty imposed by the Administrator, not to exceed \$32,500 per day for each violation. Each day a violation continues shall constitute a separate offense. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

(1) Violations for which a penalty may be imposed under this paragraph (e) shall be as follows:

- (i) No state permit registration;
- (ii) No approved stormwater management plan;

- (iii) No SWPPP; an incomplete SWPPP; SWPPP not available for review at the site;
- (iv) No approved erosion and sediment control plan;
- (v) Failure to install stormwater BMPs or erosion and sediment controls;
- (vi) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (vii) Failure to conduct land disturbing activity in accordance with operational requirements established by Regulations or by this chapter;
- (viii) Failure to conduct required inspections;
- (ix) Incomplete, improper, or missed inspections; and
- (x) Discharges not in compliance with the requirements of Section 9VAC50-60-1170 of the State General Permit.

(2) Any civil penalties assessed by a court as a result of a civil summons issued by the Administrator shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

(e) With the consent of any person who has violated or failed, neglected or refused to obey any provision or requirement of this article or any regulation, statute, ordinance, standard or specification referenced herein, or any permit, or any permit condition, the Administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in paragraph (d), above. Any such civil charges shall be instead of any civil penalty that could be imposed under this section. Any civil charges collected shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

**3. That the provisions of this Ordinance shall become effective July 1, 2014.**

**ORDINANCE**  
**TO AMEND CHAPTER 10 OF THE CODE OF THE CITY OF CHARLOTTESVILLE**  
**TO ESTABLISH A LOCAL VIRGINIA STORMWATER MANAGEMENT**  
**PROGRAM (VSMP), TO COORDINATE THE VSMP WITH REQUIREMENTS OF**  
**THE LOCAL VIRGINIA EROSION AND SEDIMENT CONTROL PROGRAM**  
**(VЕСP), AND TO UPDATE THE PROVISIONS OF CHAPTER 10 TO MEET**  
**REQUIREMENTS OF CURRENT REGULATIONS ADOPTED BY THE VIRGINIA**  
**STATE WATER CONTROL BOARD**

**WHEREAS**, pursuant to the requirements of Virginia Code Sec. 62.1-44.15:27 the City is required to establish a local Virginia Stormwater Management Program (VSMP) for land-disturbing activities, consistent with Virginia State Water Control Law, effective July 1, 2014; and

**WHEREAS**, the VSMP must be administered in conjunction with the City's established municipal separate storm sewer system (MS4) and Virginia Erosion and Sediment Control programs (VЕСP); and

**WHEREAS**, the State's Department of Environmental Quality (DEQ) requires the VSMP and VЕСP to be established within locally-adopted ordinances that contain certain provisions recommended by DEQ through the provision of model ordinances, consistent with regulations established by the State's Water Control Board; and

**WHEREAS**, following the establishment of the state-mandated VSMP, the City will be required to issue a consolidated stormwater management and erosion and sediment control permit, necessitating certain reorganization and integration of the definitions and procedural requirements in Chapter 10, Article I (In General) of the City Code with the provisions of Article II (Erosion and Sediment Control) and Article III (Stormwater Management); now, therefore,

**BE IT ORDAINED** by the Council of the City of Charlottesville:

1. **That City Code Chapter 10, Article I (In General) be amended and re-ordained, as follows:**

**Sec. 10-1. Short title.**

This chapter shall be known and may be cited as the city's "Water Protection Ordinance."

**Sec. 10-2. Authority.**

~~This chapter is adopted pursuant to authority conferred by the Virginia Erosion and Sediment Control Law (Virginia Code § 10.1-560 et seq.), the Virginia Stormwater~~

~~Management Act (Virginia Code § 10.1-603.1 et seq.), Virginia Code § 10.1-2108 of the Chesapeake Bay Preservation Act, and the federal Clean Water Act.~~

This chapter is adopted pursuant to authority conferred by: (i) the Virginia State Water Control Law, set forth within the Virginia Code, Title 62.1, Chapter 3.1 (§§ 62.1-44.2 through 62.1-44.34:28), including, without limitation, §§ 62.1-44.15:27 and 62.1-44.15:54; (ii) Virginia Code, Title 15.2, Chapters 21 and 22; and (iii) the federal Clean Water Act (33 U.S.C. §§1251 et seq.).

### **Sec. 10-3. Purposes.**

The purposes of this chapter are:

- (1) To ensure the general health, safety, and welfare of the citizens of the City of Charlottesville by (i) protecting the quality and quantity of state waters from the potential harm of unmanaged stormwater, including protection from 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, and (ii) preventing degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of soil erosion, sediment deposition and nonagricultural runoff; and
- (2) To provide a framework for the administration, implementation and enforcement of the provisions of the Virginia Stormwater Management Act and the Virginia Erosion and Sediment Control Law, and to delineate the procedures and requirements to be followed in connection with permits issued by the city, acting as a VSMP and VESCP authority, respectively; and
- (3) To establish procedures whereby the requirements of the city's VSMP, VESCP and MS4 programs shall be enforced in conjunction with one another, and to ensure integration of those program requirements with flood insurance, flood plain management and other programs requiring compliance prior to authorization of construction, in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the city and for those persons responsible for compliance with the programs.

~~The city council finds that this chapter is necessary to protect the health, safety and general welfare of the citizens of the city and the Commonwealth of Virginia and to prevent water from being rendered dangerous to the health of persons living in the city, and is supported by the findings of related studies that have been conducted. Therefore, the specific purposes of this chapter are to:~~

- ~~(1) Inhibit the deterioration of public waters and waterways resulting from land disturbing activities;~~
- ~~(2) Protect the safety and welfare of citizens, property owners, and businesses by minimizing the negative impacts of increased stormwater runoff from new land development and redevelopment;~~

- ~~(3) Control nonpoint source pollution, erosion and sedimentation, and stream channel erosion;~~
- ~~(4) Maintain the integrity of existing stream channels and networks for their biological functions, drainage, and natural recharge of groundwater;~~
- ~~(5) Protect the condition of public waters for all reasonable public uses and ecological functions;~~
- ~~(6) Provide for the long-term responsibility for and maintenance of stormwater management facilities and best management practices;~~
- ~~(7) Facilitate the integration of stormwater management and pollution control with other city ordinances and with federal, state and local programs, policies, regulations and guidelines; and~~
- ~~(8) Prohibit illicit connections and discharges to the city's municipal storm sewer system.~~

#### **Sec. 10-4. Rules of construction.**

This chapter protects paramount public interests and shall be liberally construed to effectuate its several purposes. The following rules of construction shall apply in the construction of this chapter, unless such application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

- (1) All references to any statute, ordinance, regulation, guideline, handbook, manual or standard shall be to such statute, ordinance, regulation, guideline, handbook, manual or standard as it exists on the date of adoption of this chapter and includes any subsequent amendment, thereafter reenactment, renumbering, or reissuance in a subsequent edition.
- (2) Any reference to "this article," "article II," "article III," or "article IV" shall include references to all applicable references of article I.
- (3) All references to "days" shall be to calendar days.
- (4) All references to a "fee schedule" shall mean and refer to a schedule of the fees and charges associated with the various applications, inspections, permits and approvals required by this chapter, as approved and amended by the city council from time to time. All required fees shall be made payable to the city treasurer.

#### **Sec. 10-5. Definitions.**

~~The following terms, whenever used or referred to in this chapter, shall have the respective meanings set forth below, unless the context clearly requires a contrary meaning or any such term is expressly defined to the contrary elsewhere in this chapter. In addition to the definitions set forth within the Virginia Administrative Code (VAC) at 9VAC25-840-10, 9VAC25-850-10 and 9VAC25-870-10, which are expressly adopted and incorporated herein by reference, the following words and terms used in this chapter shall have the following meanings unless otherwise specified herein. In the event of a conflict between any definition~~

incorporated by reference and any definition following below, the definition incorporated by reference shall have precedence.

*Act* means, according to the context of its use, (1) the Stormwater Management Act set forth within Title 62.1, Chapter 3.1, Article 2.3 (§§62.1-44.15:24 *et seq.*) of the Virginia Code or (2) the Erosion and Sediment Control Law set forth within Title 62.1, Chapter 3.1, Article 2.4 (§§62.1-44.15:51 *et seq.*) of the Virginia Code.

*Administrator* means, when referring to a person performing duties relative to the city's VSMP or VESCP as set forth within this chapter, the city's department of neighborhood development services. The department of neighborhood development services shall have authority to act by and through the director of neighborhood development services and any city official, employee, contractor or other agent designated by the director of neighborhood development services to perform any responsibilities or functions assigned to the VSMP or VESCP Administrator. Whenever the term "Administrator" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

*Agreement in lieu of a plan* means (i) a contract between the ~~VESCP Administrator program authority~~ and ~~thea property~~ owner which specifies conservation measures which must be implemented in the construction of an individual single-family residence, not part of a common plan of development or sale; or (ii) a contract between the VSMP Administrator and a property owner which specifies methods that will be implemented to comply with the requirements of article III of this chapter in the construction of an individual single-family residence, not part of a common plan of development or sale. Such ~~this~~ contract may be executed by the ~~program authority~~ Administrator in lieu of a formal erosion and sediment control plan or stormwater management plan, as applicable.

*Applicant* means any person submitting a ~~plan for approval~~, an application for a permit or requesting the issuance of a permit, ~~when required under any provision of this chapter, authorizing land-disturbing activities to commence.~~

*Best management practice ("BMP")* means ~~schedules of activities, prohibitions of practices, including both structural and nonstructural practices, maintenance procedures, and other management practices to prevent or reduce a practice or combination of practices that is determined by the state, a designated area-wide planning agency, or the program authority, to be the most effective, practical means of preventing or reducing the amount of surface water runoff volume and pollution of surface waters and groundwater systems from the impacts of land-disturbing activities generated by nonpoint sources to a level compatible with water quality goals.~~

*Board* means: (i) ~~as used in Article I, the State Water Control Virginia Soil and Water Conservation Board,~~ and (ii) ~~as used in Article II, the Virginia Board of Conservation and Recreation.~~

*Certified inspector* means ~~an employee or agent of the program authority implementing the city's local erosion and sediment control program who (1) holds a certificate of competence from the Virginia Soil and Water Conservation Board in the area of project inspection or (2) is enrolled in that board's training program for project inspection and successfully completes such program within one (1) year after enrollment.~~



~~*Certified plan reviewer* means an employee or agent of the program authority implementing the city's local erosion and sediment control program, who (1) holds a certificate of competence from the Virginia Soil and Water Conservation Board in the area of plan review, (2) is enrolled in that board's training program for plan review and successfully completes such program within one (1) year after enrollment, or (3) is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Virginia Code § 54.1-400, et seq.~~

~~*Certified program administrator* means an employee of the department of neighborhood development services who (1) holds a certification of competence from the Virginia Soil and Water Conservation Board in the area of program administration, or (2) is enrolled in that board's training program for program administration and successfully completes such program within one (1) year after enrollment.~~

~~*Channel* means a natural stream or human-made waterway.~~

*Clean Water Act or CWA* means the federal Clean Water Act, 33 U.S.C. 1251 *et seq.*, formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

*Clearing* means any activity which removes vegetative ground cover, including, but not limited to, root mat removal or top soil removal.

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

~~*Conservation plan, erosion and sediment control plan or plan and specifications* 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 necessary 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.~~

~~*Conservation standards, criteria or specifications* means the criteria, guidelines, techniques, and methods for the control of erosion and sedimentation whether promulgated by the program authority or contained in (1) the Virginia Erosion and Sediment Control Handbook and other regulations promulgated by the ~~Virginia Soil and Water Conservation Board~~ State Water Control Board, or (2) the Stormwater Management Handbook and other regulations promulgated by the Virginia Department of Environmental Quality ~~Conservation and Recreation~~.~~

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

*DEQ and Department* mean the Virginia Department of Environmental Quality.

~~*Development, land development and land development project* as used within this chapter each refer to land improved or to be improved as a unit, under single ownership or unified control, such improvement(s) including all of the land disturbance, and the resulting landform,~~

associated with the construction of residential, commercial, industrial, institutional, recreational, transportation, or utility facilities or structures, and or the clearing of land for non-agricultural or non-silvicultural purposes. The term shall include the entire area within a common plan of development or sale any manmade change to, or construction on, a land surface that potentially changes its runoff characteristics.

*Director*, ~~as used in for the purposes of~~ Article V of this chapter, shall mean and include the city's director of public works and director of neighborhood development services, and the employees and agents authorized by either of them to exercise authority or to take enforcement action under the provisions of Article V. The term *director* as used within Articles II and III of this chapter, shall mean the director of neighborhood development services. Whenever the term "Director" is used within any of the Regulations or other VAC sections incorporated by reference into this chapter, the term shall have the meaning assigned within those Regulations or VAC sections.

~~*Discharge* means to dispose, deposit, spill, pour, inject, dump, leak or place by any means, and also refers to that which is disposed, deposited, spilled, poured, injected, dumped, leaked or placed by any means.~~

*Erosion and sediment control plan* means a document containing materials and provisions 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 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 six thousand (6,000) square feet or less used for residential purposes.

*Excavating* means any digging, scooping, or other method(s) of removing earth materials.

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

*General permit* means the *State General Permit*, defined following below.

*Grading* means any excavating or filling, and any combination thereof, including the land in its excavated or filled conditions.

*Illegal discharge* and *illicit discharge* each means and refers to any discharge to the city's municipal storm sewer system ("MS4") that is not composed entirely of stormwater, except: (i) discharges pursuant to a VPDES permit; (ii) discharges resulting from firefighting activities; and (iii) any discharges specifically authorized within Article V of this chapter.

*Illicit connection* means any connection to the city's municipal storm sewer system ("MS4") made without the express written approval of an authorized city official.

*Land disturbance or Land- disturbing activity* means any man-made<sup>1</sup> change to the land surface that (i) actually or potentially changes its runoff characteristics, including, without limitation, clearing, grading, or excavation, or (ii) that may result in soil erosion from water or

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<sup>1</sup> Term of art required by law (VA Code Secs. 62.1-44.15:24 and 65.1-44.15:51)

wind and the movement of sediments into state waters or onto lands in the Commonwealth, including, without limitation, clearing, grading, excavating, transporting and filling. The entire land area within a common plan of development or sale, as a whole, shall be considered to be a single land disturbing activity.

~~change which may result in soil erosion from water or wind and the movement of sediments into waters or onto lands in the city or adjacent jurisdictions, including, but not limited to, clearing, grading, excavating, transporting and fill of land, except that the term shall not include:~~

- ~~(1) Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work.~~
- ~~(2) Installation, maintenance or repair of any other underground public utility mains or lines, when such activity occurs on an existing hard surfaced road, street or sidewalk and the land disturbing activity is confined to the area of the road, street or sidewalk which is hard surfaced.~~
- ~~(3) Construction, installation, maintenance or repair of any type of individual utility service connections.~~
- ~~(4) Septic tank lines or drainage fields unless included in an overall plan for land disturbing activity relating to construction of a building to be served by a septic tank system.~~
- ~~(5) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company.~~
- ~~(6) Disturbed land areas of less than six thousand (6,000) square feet in size.~~
- ~~(7) Installation of fence and sign posts or telephone and electric poles and other kinds of posts or poles.~~
- ~~(8) Emergency work to protect life, limb or property, and emergency repairs; however, if the land disturbing activity would have required an approved erosion and sediment control plan, if the activity were not an emergency, then the land area disturbed shall be shaped and established in accordance with the requirements of the Virginia Erosion and Sediment Control Handbook.~~
- ~~(9) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, or livestock feedlot operations; including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with § 10.1-1100 et seq. of the Virginia Code or is converted to bona fide agricultural or improved pasture use as described in subsection B of § 10.1-1163 of the Virginia Code.~~
- ~~(10) Agricultural engineering operations including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act, § 10.1-604 et seq. of the Virginia~~

~~Code, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage and land irrigation.~~

Layout means a conceptual drawing sufficient to identify and provide for specific stormwater management facilities required at the time of approval.

Licensed professional means an individual who is licensed as a professional engineer, architect, certified landscape architect or land surveyor pursuant to Article 1 (§§54.1-400 et seq.) of Chapter 4 of Title 54.1 of the Code of Virginia.

~~Linear development~~ means a land development 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) the construction of railroad tracks, rights-of-way, bridges, communication facilities and related facilities; and (ii) highway construction projects.

*Local erosion and sediment control program* or VESCP means an outline of the various methods employed by the Ceity to regulate land-disturbing activities and thereby minimize erosion and sedimentation in compliance with the state program, including, without limitation, city ordinances, policies and guidelines, technical materials, inspection, enforcement and evaluation.

Minor modification means, in relation to the State General Permit, an amendment to an existing State General Permit, before its expiration, not requiring extensive review and evaluation, including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring frequency requirements, changes in sampling locations, and changes to compliance dates within the overall compliance schedules. A minor State General Permit modification or amendment is one that does not substantially alter State General 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.

*Mitigation plan* means a plan, a component of a stormwater management/BMP plan, an erosion and sediment control plan, or an agreement in lieu of a plan, that describes how encroachments into a stream buffer will be mitigated through runoff treatment, re-vegetation, the addition of extra buffer areas, or other appropriate measures.

MS4 means the city's municipal separate storm sewer system. The terms "municipal separate storm sewer" and "municipal separate storm sewer system" shall have the meanings set forth within 9VAC25-870-10.

*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.

~~Nonpoint source pollution~~ means ~~pollution whose sources cannot be pin-pointed but rather is washed from the land surface in a diffuse manner by stormwater runoff.~~

Operator means the owner or operator of any facility or activity subject to regulation under this chapter.

*Owner* means the owner(s) of the freehold of land, or ~~the owner of~~ a lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or

other person in control of a property. As used herein, "owner" also refers to, in the appropriate context: ~~(i) any person authorized to act as the agent for the owner, (ii) any person who submits an erosion and sediment control plan or stormwater management plan for approval, or requests issuance of a permit, when required, authorizing land disturbing activities or land development to commence, and (iii) any person responsible for complying with an approved erosion and sediment control plan, agreement in lieu of a plan, or an approved stormwater management plan.~~

*Peak flow rate* means the maximum instantaneous flow from a given storm condition at a particular location.

*Permit* means any building permit, grading permit, or other permit, including the approval of any site plan or subdivision plat, which is required to be issued by any board, commission, officer, employee or agency of the city as a prerequisite to any land disturbing activity or development. In relation to the provisions of articles II and III of this chapter the term shall mean an approval issued by the VSMP/-VESCP Administrator for the initiation of a land-disturbing activity in accordance with this chapter, after evidence of State general permit coverage has been received.

*Permittee* means ~~(i) the person to whom a permit authorizing a land-disturbing activity activities is issued, and, in the appropriate context the term may refer to (ii) the person who certifies that an approved erosion and sediment control plan will be followed, or (iii) the person who certifies that an approved stormwater management plan will be followed.~~

*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~~this state, any interstate body, or any other legal entity.

~~*Pollutant* refers to, without limitation, paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordnances and accumulations; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues resulting from construction of a building or structure; noxious or offensive matter of any kind; and other, similar substances that cause or contribute to water pollution.~~

*Pollution Prevention Plan* shall mean a plan for implementing pollution prevention measures during construction activities, which meets the requirements of 9VAC25-870-56.

*Project* shall have the same meaning as set forth above for the term *development*.

*Public waters* means and refers to the public waters and waterways of the United States and of the Commonwealth of Virginia.

*Redevelopment* for purposes of this chapter, means and refers to construction of buildings, ~~and~~ structures, fixtures or other improvements to land as replacement(s) for existing improvements.

*Regulations* means (1) in the context of the provisions of article II, the Virginia Erosion and Sediment Control Regulations set forth within 9VAC25-840-10 *et seq.* of the Virginia Administrative Code, or (2) in the context of the provisions of article III, the Virginia

Stormwater Management Regulations set forth within 9VAC25-870-10 et seq. of the Virginia Administrative Code.

*Residential development* means a tract or parcel of land developed or to be developed as a single unit under single ownership or unified control, and which is to contain three (3) or more residential dwelling units.

~~*Responsible land disturber or RLD* means an individual holding from the project or 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 a certificate of competence issued by the Department, (ii) holds a current certificate of competence from the 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 Virginia Code § 54.1-400 et seq. who is responsible for the operations of carrying out land disturbing activity in accordance with an 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; however, the identity of the RLD must be designated on the approved erosion and sediment control plan or permit.~~

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

*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. All of the land that is part of a development, or of common plan of development or sale shall be considered as a single site.

*State* means the Commonwealth of Virginia, inclusive of its departments, boards, agencies and divisions.

*State Board* means the Virginia State Water Control Board.

*State General Permit* means the state permit titled “General Permit for Discharges of Stormwater From Construction Activities” referenced within the Virginia Administrative Code at 9VAC25-880-1 et seq., authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

*State permit* means an approval to conduct a land-disturbing activity issued by the State Board. Under a State permit, the State imposes and enforces requirements pursuant to the federal Clean Water Act and related regulations and the Virginia Stormwater Management Act and related regulations.

*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.

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

~~*Storm sewer system* means the city's municipal system of roads, streets, catch basins, retention and detention basins, curbs, gutters, ditches, pipes, lakes, ponds, channels, storm drains and other facilities located within the city which are designed or used for collecting,~~

~~storing or conveying stormwater, or through which stormwater is collected, stored or conveyed.~~

~~*Stormwater and stormwater runoff* means precipitation that is discharged across the land surface or through conveyances to one or more waterways. The term may include stormwater runoff, snow melt runoff, and surface runoff and drainage~~any surface flow, runoff and drainage consisting of water discharged across the land surface, or through conveyances, to one (1) or more waterways, from any form of natural precipitation.

~~*Stormwater management facility* means a device that controls stormwater runoff and changes the characteristics of that runoff, including, but not limited to, the quantity and quality, the period of release or the velocity of flow.~~

~~*Stormwater management facility maintenance agreement* means an agreement that binds the owner or other designated parties to maintain and inspect stormwater management facilities constructed in accordance with this chapter, based on specific terms and conditions of the agreement.~~

~~*Stormwater management plan* means any document(s) containing material that describes method(s) for complying with the requirements of article III of this chapter~~how existing runoff characteristics will be maintained within a land development project, that describes controls for the management of the rate of stormwater discharge, and that describes any best management practices provided for water quality protection. A stormwater management plan may include a narrative section, a map or site plan, pertinent calculations and specifications included with the plan.

~~*Stormwater Pollution Prevention Plan or SWPPP* means a document or set of documents prepared in accordance with good engineering practices, meeting the requirements set forth within 9VAC25-870-54, in which potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges from a construction site are described, and control measures are identified.~~

~~*Stream buffer* means an area of land at or near a tributary streambank and/or nontidal wetland that has an intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes which may result in significant degradation to the quality of state waters.~~

~~*Subdivision* shall have the same meaning as set forth within Sec. 29-3 of the City Code~~means the division, including resubdivision, of any lot, tract or parcel of land into two (2) or more lots, tracts or parcels, for the purpose, whether immediate or future, of sale or building development.

~~*Total maximum daily load or TMDL* means the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs may be expressed in terms of either mass per time, toxicity, or other appropriate measures. The TMDL process provides for point source versus nonpoint source trade-offs.~~

~~*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.

VAC means the Virginia Administrative Code. References to specific sections of the Virginia Administrative Code appear in the following format: e.g., 9VAC25-870-10. Whenever reference to a specific VAC section is given, the provisions of that VAC section shall be deemed incorporated into this chapter by reference, as if set forth herein verbatim.

Virginia Erosion and Sediment Control Program or VESCP means a program approved by the State that has been established by the City 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 article II of this chapter, and evaluation consistent with the requirements of this chapter and related federal, State and local regulations.

Virginia Erosion and Sediment Control Program Authority or VESCP Authority shall mean the City of Charlottesville, acting pursuant to authority granted by the State to operate a VESCP.

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

Virginia Stormwater Management Act means Article 2.4 (§§ 62.1-44.15:24 et seq.) of the State Water Control Law and the related state regulations set forth within 9VAC25-870-10 et seq.

VSMP or Virginia Stormwater Management Program means a program approved by the State Board after September 13, 2011, that has been established by the city to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in article III, and evaluation consistent with the requirements of article III.

VSMP Authority or Virginia Stormwater Management Program Authority means the City of Charlottesville, acting pursuant to authority granted by the State to operate a VSMP.

*Water dependent facility* refers to land development that cannot exist outside the stream buffer and must be located on a shoreline because of the intrinsic nature of its operation, including, without limitation: intake and outfall structures of water and sewage treatment plants and storm sewers; water-oriented recreation areas; and boat docks and ramps.

~~*Water quality volume* means the volume equal to the first one-half (1/2) inch of runoff multiplied by the impervious surface of the land development project.~~



~~Watershed means a defined land area drained by a river, stream or drainage ways, or system of connecting rivers, streams, or drainage ways such that all surface water within the area flows through a single outlet.~~

~~Wetlands non tidal means wetlands other than tidal wetlands that are inundated or saturated by surface or groundwater at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, as defined by the U.S. Environmental Protection Agency pursuant to section 404 of the federal Clean Water Act.~~

**Sec. 10-6. Program administration ~~Designation of program authority; powers and duties.~~**

(a) ~~The city council hereby designates the department of neighborhood development services as its administrator for the programs referenced in authority for Articles II, III, and IV. Administration and enforcement of Article V shall be as set forth within sections 10-92 and 10-93.~~

(b) ~~The administrator program authority shall administer and enforce the provisions of this chapter, acting by and through its director ~~authorized city officials and employees.~~ The director may enter into agreements or contracts with the local soil and water conservation district, an adjacent locality, or another public or private entity, to carry out or assist with the responsibilities of this chapter. The director of the department of neighborhood development services shall have authority to assign specific responsibilities or functions of the administrator to authorized agents of such department, such as another city official, employee, or an independent contractor, consistent with requirements of this chapter and applicable state laws and regulations.~~

(c) ~~The administrator program authority shall establish reasonable regulations and interpretive guidelines for the administration of this chapter, subject to approval of city council. Such regulations and guidelines shall be consistent with this chapter and all applicable federal and Sstate statutes and regulations ~~(including, without limitation, the provisions of Va. Code § 10.1-570 and § 10.1-603.7, and they shall be subject to the approval of city council.~~~~

(d) ~~Within one (1) year of the date of adoption of this chapter ~~†~~~~ ~~The administrator program authority shall assure that the erosion and sediment control program set forth in Article II is administered by a certified program ~~administrator~~ administrator, a certified plan reviewer, and a certified project inspector. Such positions may be filled by the same person. The administrator shall assure that persons reviewing stormwater management plans and conducting related inspections shall hold a certificate of competence issued by the Board.~~

(e) ~~The administrator program authority shall take appropriate enforcement actions to achieve compliance with this chapter, and shall maintain a record of enforcement actions for all active land disturbing activities and land developments.~~

(f) ~~The administrator program authority is authorized to cooperate with any federal or Sstate department, agency, or official in connection with plans for erosion and sediment control or stormwater management. The administrator program authority may also recommend to the city manager any proposed agreement with such agency for such purposes, which agreement shall be executed, if at all, by the city manager on behalf of the city.~~

## Sec. 10-7. Saving provision.

The adoption of this chapter shall not abate any pending action, liability, or penalty of any person accruing or about to accrue, nor waive any right of the city under any provision in effect prior to the date of adoption of this chapter, unless expressly provided for in this chapter. ~~Any erosion and sediment control plan, runoff control permit and, to the extent they pertain to stormwater management, any final site plan or plat, approved prior to the date of adoption of this chapter shall remain in full force and effect, and all rights and remedies of the city in enforcing such plans, permits and plats are hereby preserved. As they pertain to land disturbing activity for development that is the subject of a site plan or subdivision plat approved prior to July 1, 2014, the requirements of this chapter in relation to such development shall be as prescribed within the Regulations, or as otherwise specified by state law.~~

## Sec. 10-8. Appeals from decisions under this chapter.

(a) Any person who is aggrieved by a decision of the ~~administrator program authority~~ pursuant to this chapter shall have the right of review of such action by the city council. Any such appeal shall be filed in writing with the clerk of the city council within ~~ten (10) days~~ thirty (30) days of the date of such decision.

(b) An appeal received by the city council pursuant to this section shall be referred to the planning commission for review and findings of fact. The planning commission shall review the appeal at its next regular meeting following the date the notice of appeal is received by the clerk of council, and shall report its findings to city council. The city council shall review the appeal within thirty (30) days after the date of the planning commission meeting, at a regular or a special meeting of city council.

(c) The city council shall consider evidence presented by the owner, the ~~Administrator program authority~~, and any other aggrieved person.

(d) The council shall render its decision in writing and may affirm, reverse or modify the ~~administrator's program authority's~~ decision. The council's decision shall constitute the final decision of the city on the matter(s) which are the subject of the appeal.

(e) Any person aggrieved by a final decision of the city council pursuant to this section shall have the right of review of such decision by the circuit court of the city. Any such appeal shall be filed by the aggrieved person in writing with the circuit court within thirty (30) days of the city council's final decision.

(f) For the purposes of this section, "aggrieved person" is limited to the owner, a permittee, owners of adjacent and downstream property and any interested governmental agency or officer thereof.

~~Note—This definition of "aggrieved person" is exactly the same as that currently set forth within section 10-2(c) of Chapter 10—a provision that dates back as far as the City Code of 1976 (§ 9-13). An identical provision appears in Albemarle County's Water Protection Ordinance, see § 17-210(C) of the County Code. The definition reflects long-settled principles~~

of legal standing, as articulated within various court opinions through the years. See, e.g., *Virginia Beach Beautification Commission v. BZA*, 231 Va. 415, 344 S.E.2d 899 (1986).

**Sec. 10-9. Compliance with chapter required prior to prerequisite to issuance of permits authorizing for development involving land disturbing development activities.**

(a) A person shall not commence, conduct or engage in any land-disturbing activity until such person has submitted a permit application to the administrator and has obtained the administrator's approval of a permit authorizing commencement of land disturbing activity. A grading, building or other permit for activities involving land disturbing activities may be issued by the program authority only as provided herein:

(1) The applicant owner shall submit with his the application for such a permit:

a. a proposed erosion and sediment control plan;

b. a proposed and/or stormwater management plan, if required;

c. a State General Permit registration statement, if required; as may be required by this chapter, for review and approval pursuant to this article, or an approved erosion and sediment control plan and/or stormwater management plan and certification that the plan(s) will be followed.

d. for the land that is proposed to be disturbed, (i) a valid, approved preliminary site plan that provides a layout, as defined in 9VAC25-870-10, or a valid approved site plan, (ii) a valid, approved preliminary subdivision plat that provides a layout, as defined in 9VAC25-870-10, or a valid, approved final subdivision plat, or (iii) for land use or construction not subject to the requirement of an approved site plan or subdivision plat, the applicant shall submit a written certification of the purpose of the proposed land disturbing activity together with a zoning administrator determination stating that the use sought to be established on the land is permitted under applicable zoning district regulations and will comply with applicable requirements of the city's zoning and other local ordinances;

e. any request for exception(s) from applicable technical requirements; and

f. payment of required application fee(s), pursuant to sec. 10-10.

The administrator permit-issuing department shall not issue any approval(s) permit for commencement of any land-disturbing activity until all such required submissions and plans have been received and approved and the required certification(s) are submitted.

(2) Prior to issuing a permit, the permit-issuing department shall require, or in the case of an agreement in lieu of a plan may require, the owner to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the program authority, to ensure that measures could be taken by the city at the applicant's expense, should he fail, after proper notice, within the time specified to initiate or maintain appropriate corrective action which may be required of him by the approved plan as a result of his land-

disturbing activity. The administrator shall act on each plan included within the application, in accordance with the following:

- a. The administrator, or any duly authorized agent of the administrator, shall promptly review the materials submitted with an application. The administrator or his agent shall determine the completeness of the application within 15 calendar days of receipt, in accordance with the procedure referenced in 9VAC25-870-108(B).
  - b. The administrator or his agent shall act on a plan within the time period(s) and in accordance with the procedures referenced within 9VAC25-870-108(B). However, when a proposed erosion and sediment control plan is determined to be inadequate, notice of disapproval, stating the specific reasons for disapproval, will be communicated to the applicant within 45 days.
  - c. Approval or denial of a plan shall be based on compliance with the requirements of this chapter. Any decision shall be communicated in writing to the person responsible for the land-disturbing activity or the person's agent. Where available to the applicant, electronic communication will be deemed communication in writing. If a plan meeting all of the requirements of this chapter is submitted and no action is taken within the required time period, the plan shall be deemed approved. If a plan is not approved, the reasons for not approving the plan shall be provided in writing.
  - d. When all requirements have been satisfied and all required plans have been approved, the administrator shall issue a consolidated stormwater management and erosion and sediment control permit, when all of the following requirements have been satisfied:
    1. Upon the development of an online reporting system by DEQ, but no later than July 1, 2014, the administrator shall not issue a permit to authorize any land disturbing activity until evidence has been obtained of State General Permit coverage, where required; and
    2. The administrator must receive the performance guarantee(s) and other instruments and documentation specified in subparagraphs (3) through (6), following below; and
    3. All fees required by sec. 10-10 shall be paid by the applicant.
- (3) Prior to issuance of any approval or permit, the administrator shall require (or in the case of an agreement in lieu of a plan, may require) the applicant to submit a reasonable performance bond with surety, a cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the Administrator (individually, and collectively, "performance guarantee"), to ensure that measures could be taken by the city at the applicant's expense, upon the applicant's failure, after proper notice, within the time specified, to initiate or maintain appropriate actions which may be required of applicant by the approved plan(s) and permit(s) or permit conditions as a result of applicant's land-disturbing activity. Separate performance guarantees shall be established and required to assure compliance with

the approved stormwater management plan and with the erosion and sediment control plan, except as provided in subparagraph (c), below. A bond or other surety required by the permit issuing department shall not exceed the total of the estimated cost to initiate, maintain and repair all structures, systems, and measures identified within an approved plan, and to comply with all other terms and conditions of the plan.

- a. The amount of the bond or other surety shall be based on unit prices for new public or private sector construction in the City of Charlottesville, Virginia, and a reasonable allowance for estimated administrative costs and inflation which shall not exceed twenty five (25) percent of the estimated cost to initiate, maintain and repair all structures, systems, and measures identified within an approved plan, and to comply with all other terms and conditions of the plan.
- ab. Each The performance guarantee bond or other surety shall be effective provided from a date prior to the issuance of any permit or approval from the permit issuing department or agency until sixty (60) days after completion of the requirements of approved plan(s) and permit(s) or permit conditions. the approved stormwater management plan have been completed, as determined by the program authority. The instrument(s) of security shall provide that the performance guarantee for stormwater requirements shall be and remain in effect until satisfactory completion of all permit conditions has been achieved. Within 60 days of the satisfactory completion of the requirements of the permit conditions, such security, or the unexpended or unobligated portion thereof, if any, shall be refunded to the applicant or terminated.
- be. If approved by the administrator program authority and the city attorney, the applicant owner may submit any required the performance guarantee bond or other surety as part of, or included in, any other performance guarantee(s) performance bond or surety required in connection with a site plan, subdivision plat or other required approval. In cases where any such consolidated performance guarantee is authorized, the administrator shall separately establish the specific amount(s) attributable to erosion and sediment control requirements, stormwater management requirements, construction of public facilities and improvements, and other activities for which a performance guarantee is to be provided.
- c. The instrument(s) of security shall provide the administrator and its authorized agents with a right of entry, for the purpose of initiating or maintaining appropriate actions that are required by the permit, or permit conditions associated with a land-disturbing activity when the applicant, a permittee, or other person responsible for carrying out the land disturbing activities or the requirements of a permit and permit conditions, after proper notice, has failed to take acceptable action within the time specified.
- d. This requirement for performance bonding/ security is in addition to all other provisions and requirements of this article, state law and state Regulations, relating to the issuance of permits, and is not intended to otherwise affect the requirements for such permits.

- e. If the administrator is required to take action upon a failure of the permittee, the administrator may collect from the permittee the difference should the amount of the reasonable cost of such action exceed the amount of the performance guarantee held by the administrator.
  - f. The administrator may require submission of other materials and supporting documentation as the administrator deems necessary in order for the applicant to demonstrate that all land clearing, construction, disturbance, land development and drainage will be done according to the approved permit.
- (4) If the program authority is required to take corrective action pursuant to this article, then the city may collect from the owner the amount by which the reasonable cost of such corrective action exceeds the amount of the surety. Prior to issuance of any approval or permit for land disturbing activity involving one or more acres of land, the administrator shall require the applicant to submit a stormwater pollution prevention plan (SWPPP). The SWPPP shall include the content specified by 9VAC25-870-54, 9VAC25-870-55 and 9VAC27-870-56, as well as the requirements and general information specified by 9VAC25-880-70, Section II.
- a. The SWPPP shall be amended by the operator whenever there is a change in design, construction, operation or maintenance that has a significant effect on the discharge of pollutants to state waters which is not addressed by the existing SWPPP.
  - i.b. The SWPPP must be maintained by the operator at a central location at the site of the development. If no onsite location is available, notice of the SWPPP's location must be posted near the main entrance at the development site. Operators shall make the SWPPP available for public inspection in accordance with 9VAC25-880-70, Section II, either electronically or paper copy.
- (5) Within sixty (60) days of the achievement of adequate stabilization of the land-disturbing activity in any land development project or section thereof, the bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the owner or terminated based upon the percentage of stabilization accomplished in the project or section thereof. Except as provided in sec. 10-56(d), prior to issuance of any approval or permit for land disturbing activity associated with development for which permanent stormwater management facilities are required, the administrator shall require the applicant to submit a proposed written instrument, in a form suitable for recordation in the city's land records, specifying long-term responsibility for and maintenance of the stormwater management facilities and other techniques specified within the proposed stormwater management plan for management of the quality and quantity of runoff.
- (b) No site plan shall be granted final approval, and no final subdivision plat shall be signed by any city board, commission, agency, department, official or employee, unless and until such final site plan or final subdivision plat includes improvements, facilities and

treatments identified within a stormwater management plan approved by the administrator in accordance with this chapter.

(c) No authorization or permit for any construction, land use or development involving any land-disturbing activity, including any grading permit, building permit, foundation permit, demolition permit, or other city-issued development permit, shall be issued by any city board, commission, agency, department, official or employee, unless and until a stormwater management plan has been approved and a permit has been issued by the administrator in accordance with this chapter.

#### **Sec. 10-10. Fees for review and approval of plans.**

(a) The city council will, from time to time, approve a schedule of the fees and charges associated with the various applications, actions, inspections, permits and approvals required by this chapter in connection with the review of plans, issuance of VSMP and VESCP Authority permits, issuance of State General Permit coverage, and implementation of the VSMP and VESCP related to land disturbing activities. Prior to the issuance of any permit authorizing commencement of any land disturbing activity, and prior to conducting any inspection or other action required by this chapter for which a fee is specified, the administrator shall assess, collect and administer the applicable fees and charges set forth within the most recent fee schedule adopted by city council.

(b) The city council hereby adopts and incorporates by reference the statewide fee schedule(s) enacted by the State Board pursuant to Virginia Code §62.1-44.15:28 and 9VAC25-870-700 et seq., and said fee schedule(s) shall be deemed included within the local fee schedule referenced in paragraph (a), above. Prior to the issuance of any permit authorizing the commencement of any land disturbing activity, the administrator shall assess, collect and administer the fees as set forth within 9VAC25-870-700-700 et seq., including, without limitation:

- (1) Fees for the modification or transfer of registration statements from the State General Permit issued by the State Board; provided, however, that if the State General Permit modifications result in changes to stormwater management plans that require additional review by the administrator, then, in addition to the State General Permit modification fee, modifications resulting in an increase in total disturbed acreage shall pay the difference between the initial permit fee paid and the permit fee that would have applied for the total disturbed acreage. No such modification fee shall be assessed to (i) permittees who request Minor Modifications to a State General Permit, or (ii) permittees whose general permits are modified or amended at the initiative of DEQ (excluding errors in the registration statement identified by the administrator and errors related to the acreage of the site); and
- (2) Annual fees for maintenance of the State General Permit, including fees on expired permits that have been administratively continued. State General Permit maintenance fees shall be paid annually to the city, on or before the anniversary date of general permit coverage. State General Permit maintenance fees shall apply, and shall

continue to be paid, until State General Permit coverage is terminated. No permit will be reissued or automatically continued without payment of the required fee for State General Permit coverage.

(3) Payment of the state's portion of the statewide permit fee shall not be required for coverage under the State General Permit, for construction activity involving a single-family detached residential structure, when such activity is exempted from such fee pursuant to regulations established by the State Board.

State General Permit coverage and maintenance fees may apply to each State General Permit holder. Persons whose coverage under the State General Permit has been revoked shall apply to DEQ for an Individual Permit for Discharges of Stormwater from Construction Activities. All persons seeking approval of a stormwater management plan, all persons seeking coverage under the State General Permit, and all permittees who request modifications to or transfers of their existing registration statement for coverage under a State General Permit, shall be subject to the fees referenced within this paragraph, in addition to any separate fees that may apply under paragraph (a) of this section.

(c) Fees shall be paid when due, by applicants, permittees, and other persons responsible for carrying out conditions of a permit. An incomplete payment will be deemed a nonpayment. Interest shall be charged for non-payments and for late payments, at the rate set forth in Virginia Code §58.1-15, calculated on a monthly basis at the applicable periodic rate. A ten percent (10%) late payment fee shall be charged to any delinquent account that is more than 90 days past due. The city shall be entitled to all remedies available under the Virginia Code in collecting any past due amount.

**Secs. 10-11—10-20. Reserved.**

**2. That City Code Chapter 10, Article II (Erosion and Sediment Control) be amended and re-ordained, as follows:**

#### **DIVISION 1. IN GENERAL**

**Sec. 10-21. Purpose and authority; applicability~~Permit required for land-disturbing activities.~~**

(a) The purpose of this article is to prevent degradation of properties, stream channels, waters and other natural resources of the City, by establishing requirements for the control of



soil erosion, sediment deposition and nonagricultural runoff, and by establishing procedures by which these requirements shall be administered and enforced.

(b) This chapter is authorized by the Code of Virginia, Title 62.1, Chapter 3.1 (State Water Control Law) article 2.4, Sec. 62.1-44.15:51 et seq. (Erosion and Sediment Control Law).

(c) This article shall apply to any land disturbing activity within the city, except that state agency projects shall be subject to the requirements of Virginia Code § ~~10-1-56~~62.1-44.15:56. Each owner of land within the City shall comply with the requirements of this article, as provided herein:

- (1) Prior to engaging in any land disturbing activity, or allowing any land disturbing activity to occur, on his such owner's property;
- (2) At all times during any land disturbing activity until it is completed, including all times when the land disturbing activity is performed by a contractor engaged in construction work; and
- (3) When notified by the program authority administrator that an erosion impact area exists on his such owner's land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.

(d) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to "this article", and references to "provisions of this article" shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and II of this chapter.

~~No person shall engage in any land disturbing activity within the city until he has acquired a permit from the zoning administrator.~~

#### **Sec. 10-22. Determination of land disturbing activity.**

(a) The determination of whether an activity is a land disturbing activity for purposes of this article shall be made by the administrator, as provided herein. Except as may otherwise be required by federal or state law or regulations, the term "land disturbing activity" shall not include:

- (1) Disturbed land areas of less than 6,000 square feet;
- (2) Home gardens, individual home landscaping, repairs or maintenance work; The program authority shall determine whether an activity is a land disturbing activity, including any claim by an owner that the activity is exempt from the requirements of this article.

- ~~(32) Individual service connections; If a land disturbing activity includes activity at a separate location, including but not limited to borrow and disposal areas, the program authority administrator may either:~~
- ~~a. Consider the off-site activity as being part of the land disturbing activity, and require an erosion and sediment control plan to be submitted and approved; or~~
  - ~~b. If the off-site activity is already covered by an erosion and sediment control plan approved by the city, require the owner to provide proof of the approval and to certify that the plan will be implemented in accordance with this article.~~
- ~~(43) Installation, maintenance, or repair of any underground public utility lines, when such activity occurs on an existing hard surfaced road, street or sidewalk, provided the activity is confined to the area of the road, street or sidewalk that is hard surfaced; If a property will be developed in phases, the determination of whether an activity constitutes a land disturbing activity shall be determined by considering the development of the property as a whole, regardless of the phasing of the development.~~
- ~~(54) Septic tank lines or drainage fields, unless included in an overall plan for land-disturbing activity relating to construction of a building to be served by the septic tank system; Land disturbing activity of less than six thousand (6,000) square feet on individual lots in a residential development shall not be exempt from this article if the total land disturbing activity in the residential development is equal to or greater than six thousand (6,000) square feet.~~
- ~~(6) Surface or deep mining operations and projects, or oil and gas operations and projects, conducted in accordance with a permit issued pursuant to Code of Virginia Title 45.1; however, such activities shall not be conducted unless allowed by the city's zoning ordinance;~~
- ~~(7) Tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the state Board in regulation, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with Code of Virginia § 10.1-1100 et seq., or is converted to bona fide agricultural or improved pasture use, as described in subsection B of § 10.1-1163. Such activities shall not be conducted unless allowed by the city's zoning ordinance.~~
- ~~(8) Agricultural engineering operations, including but not limited to the construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds not required to comply with the provisions of the Dam Safety Act (§ 10.1-604 et seq.), ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation. Such activities shall not be conducted unless allowed by the city's zoning ordinance.~~
- ~~(9) Repair or rebuilding of the tracks, rights-of-way, bridges, communication facilities and other related structures and facilities of a railroad company;~~

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

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

(12) Emergency work to protect life, limb, or property, and emergency repairs; however, if the land-disturbing activity would have required an approved erosion and sediment control plan if there were no emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of this article.

(b5) Upon the determination by the ~~program authority~~ administrator that an activity is a land disturbing activity the owner shall ~~immediately submit an erosion and sediment control plan to the administrator for review and approval, and shall otherwise take all actions necessary to~~ comply with the requirements of this article.

(c) Whenever land-disturbing activity involves activity at a separate location (including but not limited to borrow and disposal areas), the administrator may either:

(1) Consider the off-site activity as being part of the proposed land-disturbing activity; or

(2) If the off-site activity is already covered by an approved erosion and sediment control plan, the administrator may require the applicant to provide proof of such approval and to certify that the plan will be implemented in accordance with the requirements of this article.

(d) An erosion and sediment control plan shall be submitted and approved for a development and the buildings constructed within, regardless of the phasing of construction.

#### **Sec. 10-23. Determination of erosion impact area.**

(a) In order to prevent further erosion, the administrator may require submission and approval of an erosion and sediment control plan for any land determined to be an erosion impact area, regardless of the size of such area. The determination of whether an erosion impact area exists on property shall be rendered by the administrator as provided herein:

(b) The ~~program authority~~ administrator shall determine whether an erosion impact area exists on a property ~~and the property and the owner thereof are subject to the requirements of this article.~~ The ~~program authority~~ administrator shall make this determination after an investigation ~~brought either on his own initiative~~ initiated by the administrator or upon the complaint of any citizen.

(c) Upon making a determination that an erosion impact area exists, the ~~program authority~~ administrator shall immediately notify the owner of the property, in writing, of ~~its~~ the determination. The notice shall be served by certified mail to the address of the owner based on the most recent tax records of the city, or by personal delivery. The written notice shall (i)

instruct the owner to submit an erosion and sediment control plan for review and approval as provided in this article, and (ii) state the date by which the plan must be submitted.

(d) Upon receipt of the notice required by this section the owner shall ~~immediately~~ submit to the ~~program authority administrator for approval~~ an erosion and sediment control plan designed to prevent further erosion, and the owner shall in all other aspects comply with the requirements of the notice and of this article. The owner shall not permit any portion of the land that is the subject of the notice to remain in a condition such that soil erosion and sedimentation causes reasonably avoidable damage or harm to adjacent or downstream property, roads, streams, lakes or ponds.

(e) For good cause shown, the ~~program authority administrator~~ may grant to an owner an extension of time to comply with the requirements of this section and this article.

**Secs. 10-24—10-30 Reserved.**

## **DIVISION 2. EROSION AND SEDIMENT CONTROL PLAN FOR LAND-DISTURBING ACTIVITIES**

**Sec. 10-31. Permit required for land disturbing activities ~~Applicability.~~**

No person shall engage in any land-disturbing activity within the city until ~~he has acquired a permit from the zoning administrator~~ an erosion and sediment control plan has been approved and a land disturbing permit has been issued by the Administrator in accordance with Sec. 10-9 of the city code. The land disturbing permit is required in addition to any other approval required by this chapter, by the city's zoning or subdivision ordinances, or from the city's building official (including, without limitation, any building permit, foundation permit, or demolition permit).

~~This article shall apply to any land disturbing activity, except that state agency projects shall be subject to the requirements of Virginia Code § 10.1-564. Each owner shall comply with the requirements of this article, as provided herein:~~

- ~~(1) Prior to engaging in any land disturbing activity, or allowing any land disturbing activity to occur, on his property;~~
- ~~(2) At all times during any land disturbing activity until it is completed, including all times when the land disturbing activity is performed by a contractor engaged in construction work; and~~
- ~~(3) When notified by the program authority that an erosion impact area exists on his land, and the notice requires the owner to submit an erosion and sediment control plan in order to control erosion and sedimentation.~~

**Sec. 10-32. Responsibilities of owner of land when work to be conducted by contractor.**

Whenever a land-disturbing activity is proposed to be conducted by a contractor performing construction work pursuant to a construction contract, the preparation, submission

and approval of the required erosion and sediment control plan shall be the responsibility of the owner of the land.

**Sec. 10-33. Conformity to state handbook and regulations.**

Pursuant to Code of Virginia § 62.1-44.15:54 the city hereby adopts the regulations, references, guidelines, standards and specifications promulgated by the state Board, and the City's Design and Standards Manual, 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 for erosion and sediment control are included in but not limited to the Virginia Erosion and Sediment Control Regulations set forth within the Virginia Administrative Code at 9VAC25-840-10 et seq. and the Virginia Erosion and Sediment Control Handbook, including all amendments thereto. The regulations, references, guidelines, standards and specifications referenced within this paragraph shall be used (i) by an applicant when preparing and submitting an erosion and control plan for review and approval of the administrator under the provisions of this article, and (ii) by the administrator, in considering the adequacy of a submitted plan.

~~All plans and specifications submitted under this article shall be in conformance with the standards, specifications and criteria of the Virginia Erosion and Sediment Control Handbook and those regulations promulgated by the Virginia Soil and Water Conservation Board, including, without limitation, the criteria, techniques and methods set forth in 4 Virginia Administrative Code 50-30-40; provided, however, that pursuant to Virginia Code § 10.1-561 the following shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels:~~

~~(1) Stream restoration and relocation projects that incorporate natural channel design concepts;~~

~~(2) Any land-disturbing activity that provides for stormwater management intended to address any flow rate capacity and velocity requirements for natural or man-made channels, and 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 forty-eight (48) hours; (ii) detain and release over a twenty-four-hour period the expected rainfall resulting from the one (1) year, twenty-four-hour storm; and (iii) reduce the allowable peak flow rate resulting from the one and one-half-, two-, and ten-year, twenty-four-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.~~

**Sec. 10-34. Review and inspection Fees.**

Fees A plan review and inspection fee shall be submitted at the time of filing any erosion and sediment control plan, and thereafter, as ~~This fee shall be an amount~~ specified within the most recent fee schedule approved by city council. Each re-submission of a plan following

rejection by the ~~program authority administrator~~ shall constitute a new application requiring an additional application fee.

#### **Sec. 10-35. Erosion and sediment control plan.**

~~(a) No person shall engage in any land-disturbing activity until such person has submitted to the administrator. Each owner subject to this article shall submit to the program authority for review and approval an erosion and sediment control plan, along with an application for a land disturbing permit in accordance with article 1 as provided herein.:~~

~~(b) (1) — The owner shall submit a completed application on a form provided by the program authority, together with~~ four (4) copies of an erosion and sediment control plan that satisfies the requirements of this section, and a certification stating that all requirements of the approved plan will be complied with.

~~(c) (2) — The standards contained within the Regulations, and within the Virginia Erosion and Sediment Control Handbook, as amended, and the City's Standards and Design Manual, shall be used by the applicant in preparing and submitting an erosion and sediment control plan. The plan shall include specifications for temporary and permanent controls of soil erosion and sedimentation in such detail as the program authority shall deem reasonably adequate, considering the nature and extent of the proposed land disturbing activity, and a statement describing the maintenance responsibilities of the owner to assure that the land disturbing activity will satisfy the purposes and requirements of this article. The plan shall identify the responsible land disturber, as defined in this chapter, who shall be in charge of and responsible for carrying out the land disturbing activity.~~

~~(d) (3) — The program authority administrator may require additional information as may be necessary for its complete review of the plan.~~

~~(e) (4) — In lieu of paragraphs (1b) — (3d), above, if the land disturbing activity involves land also under the jurisdiction of another local erosion and sediment control program, the owner may, at his option, choose to have a conservation plan approved by the Virginia Department of Conservation and Recreation, Division of Soil and Water Conservation. The owner shall notify the program authority of such plan approval by such board. where land disturbing activity will involve land under the jurisdiction of more than one locality's program, an erosion and sediment control plan, at the option of the applicant, may be submitted to the state Board or its agent (DEQ) for review and approval, rather than to each locality.~~

~~(f) (5) — In lieu of paragraphs (1b) — (3d), above, any person engaging in the creation and operation of wetland mitigation banks in multiple jurisdictions, which have been approved and are operated in accordance with applicable federal and state guidance, laws, or regulations for the establishment, use, and operation of mitigation banks, pursuant to a permit issued by the Department of Environmental Quality, the Marine Resources Commission, or the U.S. Army Corps of Engineers, may, at the option of that person, file general erosion and sediment control specifications for wetland mitigation banks annually with the DEQ board for review and approval consistent with guidelines established by the Bboard.~~

~~(g) (6) — Pursuant to Virginia Code § 10.1-56362.1-44.15:55(D), electric, natural gas and telephone utility companies, interstate and intrastate natural gas pipeline companies shall,~~

and railroad companies shall, and authorities created pursuant to Code of Virginia § 15.2-5102 may, file general erosion and sediment control specifications annually with the Board board for review and approval.

#### **Sec. 10-36. Review and approval of erosion and sediment control plan.**

Each erosion and sediment control plan submitted pursuant to this article shall be reviewed and approved as provided herein:

- (1) The plan shall be submitted along with the application required by sec. 10-9 of article I, and shall be reviewed by the program authority administrator to determine its compliance with the requirements of this article and with applicable state laws and regulations.
- (2) During ~~its~~ review of the plan the program authority administrator may correspond with the owner from time to time to review and discuss the plan with the owner, and may require additional information shall inform from the owner in writing of any modifications, terms, or conditions required to be included in the plan as necessary in order for ~~the plan~~ to be approved.
- (3) ~~Except as provided in paragraph (4), below, the program authority shall approve or disapprove a plan in writing within forty five (45) days from the date a complete application was received. The decision of the program authority shall be based on the plan's compliance with the requirements of this article and with applicable state laws and regulations. If the plan is disapproved, the specific reasons for such disapproval (with reference to the relevant ordinances, laws or regulations) shall be stated in the decision. The decision shall be communicated to the applicant by mail or delivery. The administrator shall review erosion and sediment control plans submitted, and shall either grant written approval or written notice of disapproval in accordance with the time periods and other requirements set forth within Code of Virginia § 62.1-44.15:55 and article I of this chapter.~~
- (4) ~~If the program authority fails to act on the plan within forty five (45) days from the date the complete application was received by it, then the plan shall be deemed approved. Applicants for land-disturbing permits may be required to provide a performance bond, cash escrow or other financial guarantee, determined in accordance with Sec. 10-9 of this chapter, to ensure that measures could be taken by the administrator at the applicant's expense should the applicant fail, after proper notice, within the time specified, to initiate or maintain appropriate measures required by the approved erosion and sediment control plan as a result of applicant's land-disturbing activity.~~
- (5) If the owner is required to obtain approval of a site plan or subdivision plat for a development, the program authority administrator shall not approve an erosion and sediment control plan or authorize the commencement of any land disturbing activity, unless and until the site plan or plat has received final approval is approved as provided by law. ~~For purposes of this paragraph, a site plan or plat may be deemed approved by the program authority if its approval is conditioned upon the approval of an erosion and sediment control plan pursuant to this article, and the program~~

~~authority determined that review and approval of the erosion and sediment control plan will not affect approval of the site plan or plat. The program authority may~~ Notwithstanding the foregoing, the administrator may approve an erosion and sediment control plan and may authorize commencement of land disturbing activity, prior to approval of a required final site plan or final subdivision plat only in the following circumstances:

- a. To correct any existing erosion or other condition conducive to excessive sedimentation which is occasioned by any violation of this chapter or by accident, act of God, or other cause beyond the control of the owner, provided that the activity proposed shall be strictly limited to the correction of such condition;
- b. ~~To clear and grub stumps and other activity directly related to the selective cutting of trees, as may be permitted by law;~~ To install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have previously been approved by the operating public utility or public service corporation and have previously been approved by the city as being substantially in accord with the comprehensive plan, where required by Code of Virginia § 15.2-2232.
- ~~c. To install underground public utility mains, interceptors, transmission lines and trunk lines for which plans have been previously approved by the operating utility and approved by the city as being substantially in accord with the comprehensive plan, if necessary;~~
- d. ~~To fill earth with spoils obtained from grading, excavation or other similar, lawful activities;~~
- e. ~~To construct temporary access roads, provided that the area disturbed shall be returned to substantially its previous condition, with no significant change in surface contours, within thirty (30) days of the completion of such temporary use, or within thirteen (13) months of the commencement of any land disturbing activity on the land which is related to such temporary use, whichever period shall be shorter.~~
- f. ~~To establish burrow, fill, or waste areas, if permitted by the city's zoning ordinance.~~

#### **Sec. 10-36.1. Variances.**

The ~~administrator program authority~~ may waive or modify any of the standards that are deemed ~~by it 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 ~~administrator program 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 ~~administrator~~program authority. The ~~program authority~~administrator shall respond in writing either approving or disapproving such a request. If the ~~program authority~~administrator does not approve a variance within ten (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 administrator shall consider variance requests judiciously, keeping in mind both the need of an applicant to maximize cost effectiveness and the public interest and need to protect off-site properties and resources from damage.

**Sec. 10-37. Agreement in lieu of a plan.**

(a) If land disturbing activity is for the purpose of establishing or modifying a single family detached dwelling, then, in lieu of an erosion and sediment control plan, ~~program authority~~the administrator may enter into a contract with the property owner that specifies conservation measures that must be implemented in the construction of the single-family dwelling.

~~allow an agreement in lieu of a plan for the construction of such dwelling, provided:~~

- ~~(1) The single family dwelling is located on an individual lot which is not part of a subdivision;~~
- ~~(2) The single family dwelling is located within a residential development or subdivision, and the individual lots are being developed by different property owners; or~~
- ~~(3) The single family dwelling is located within a subdivision that no longer has an active erosion and sediment control plan; and~~
- ~~(4) The agreement in lieu of a plan identifies the responsible land disturber, as defined in this chapter, who shall be in charge of and responsible for carrying out the land disturbing activity.~~

(b) In determining whether to allow an agreement in lieu of a plan, the ~~program authority administrator~~ shall ~~consider~~ include as part of its consideration the potential threat to water quality and to adjacent land resulting from the land disturbing activity, as well as applicable provisions of state law and regulations. When an agreement in lieu of a plan is authorized and approved by the ~~program authority administrator~~, the ~~program authority administrator~~ and the owner shall have all of the rights, responsibilities and remedies set forth in this article as though such agreement in lieu of a plan was an erosion and sediment control plan.

(c) The administrator may waive the requirement for a responsible land disturber holding a certificate of competence, in connection with an agreement in lieu of a plan for construction of a single family residence. If a violation occurs during the land-disturbing activity, then the person responsible for carrying out the agreement in lieu of a plan shall correct the violation and shall provide the name of an responsible land disturber holding a certificate of competence, as provided by Code of Virginia § 62.1-44.15:55.

### Sec. 10-38. Amendment of approved plan.

The ~~program authority administrator~~ may require changes to an approved erosion and sediment control plan, and require an owner to submit an amended plan, in the following circumstances:

- (1) An inspection reveals that the plan is inadequate to satisfy the requirements of this article;
- (2) The person responsible for carrying out the plan ~~owner~~ finds that, because of changed circumstances, or for other reasons, the approved plan cannot be effectively carried out and proposed amendments to the plan, consistent with the requirements of this article are agreed to by the ~~program authority administrator~~ and the ~~owner~~ person responsible for carrying out the plan; or
- (3) In the event that ~~The~~ land disturbing activity ~~was not~~ has not commenced during the ~~180 one hundred eighty~~ day period following plan approval, or if land disturbing activity pursuant to an approved plan has ceased for more than ~~one hundred eighty (180)~~ 180 days, the administrator may evaluate the existing approved erosion and sediment control plan and the existing plan has been evaluated to determine whether ~~the plan~~ still satisfies the requirements of this article and state erosion and sediment control criteria, and to verify that all design factors are still valid. If the administrator finds the previously approved, and it has been determined that the plan is to be inadequate, in such a case, the land disturbing activity shall not be resumed until a modified plan shall be submitted for approval by the administrator prior to the commencement or resumption of land-disturbing activity a modified plan is submitted and approved as provided in this article.

### Sec. 10-39. Duty to comply, maintain and repair.

Upon approval by the ~~program authority administrator~~ of an erosion and sediment control plan, each owner shall:

- (1) Comply with the approved plan when performing, or allowing to be performed, any land disturbing activities, or activities to correct an erosion impact area;
- (2) Maintain and repair all erosion and sediment control structures and systems to ensure continued performance of their intended function;
- (3) Comply with all requirements of this article, and with applicable state laws and regulations; and
- (4) Provide the name of ~~Have~~ a responsible land disturber, as defined in article I of this chapter, who will be in charge of and responsible for carrying out the land disturbing activity.

## Sec. 10-40. Inspection and monitoring.

(a) ~~As a condition of approval of an erosion and sediment control plan, the program authority administrator may require the person responsible for carrying out the plan owner to monitor the land-disturbing activity and report to the program authority as provided herein:~~

- (1) Any monitoring conducted shall be for the purpose of ensuring compliance with the erosion and sediment control plan, and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation.
- (2) The condition requiring monitoring and reporting shall state: (i) the method and frequency of such monitoring, and (ii) the format of the report and the frequency for submitting reports.
- (3) The person responsible for carrying out the plan will maintain records of 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 program authority shall inspect any land disturbing activity or erosion impact area as provided herein: The administrator shall periodically inspect the land disturbing activity in accordance with 9VAC25-840-60, to assure compliance with the approved plan and to determine whether the measures required in the plan are effective in controlling erosion and sedimentation as provided herein. The owner, permittee, or person responsible for carrying out the plan shall be given notice of the inspection.~~

- (1) ~~The program authority shall conduct periodic inspections of land disturbing activities and erosion impact areas to determine compliance with the approved erosion and sediment control plan, and to determine whether such approved plan and permit as implemented are adequate to satisfy the requirements of this article. Monitoring, reports and inspections required by the administrator shall be conducted in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58 and 62.1-44.15:60, and applicable provisions of state regulations.~~
- (2) ~~Except as provided in paragraph (3), below, inspections shall be conducted (i) during or immediately following initial installation of erosion and sediment controls; (ii) at least once in every two-week period; (iii) within forty-eight (48) hours following any runoff producing storm event, and (iv) upon completion of the land development project prior to the release of any surety. The inability of the program authority to conduct inspections within the time periods set forth within this paragraph shall not be deemed to be a failure of the program authority to perform a mandatory duty or a ministerial function, and no liability to the city, the program authority or to any official or employee thereof shall arise therefrom. If the administrator determines that there is a failure to comply with the approved plan, notice shall be served on the permittee or person responsible for carrying out the plan, in accordance with the requirements of Code of Virginia §§ 62.1-44.15:58. Upon failure to comply within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.~~

- (3) ~~Notwithstanding paragraph (2), above, the program authority is authorized to establish an alternative inspection program which ensures compliance with an approved erosion and sediment control plan. Such alternative inspection program shall be: (i) approved by the Virginia Soil and Water Conservation Board prior to implementation; (ii) established in writing; (iii) based on a system of priorities which, at a minimum, address the amount of disturbed project area, site conditions, and stage of construction; (iv) documented by inspection records; and (v) maintained and available for public review in the department of neighborhood development services. Upon determination of a violation of this ordinance the administrator may, in conjunction with or subsequent to a notice to comply, issue an order requiring that all or part of the land-disturbing activities be stopped until an approved plan or any required permits are obtained. In cases where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands or sediment deposition in waters, or where the land-disturbing activities have commenced without an approved plan or any required permits, such an order may be issued without regard to whether the permittee has been issued a notice to comply. Any such order shall be served in the same manner as a notice to comply. A stop-order shall have the effects, shall remain in effect, as set forth within Code of Virginia §§ 62.1-44.15:58. Upon completion and approval of corrective action, or obtaining an approved plan and any required permits, the order shall be lifted. Upon failure to comply with any such order within the specified time, the land-disturbing permit may be revoked and the permittee or person responsible for carrying out the plan shall be deemed to be in violation of this ordinance and shall be subject to the penalties provided herein.~~
- (4) ~~The program authority shall have the right to enter upon property subject to an erosion and sediment control plan for the purposes of conducting an inspection as provided in this section or an investigation pertaining to an erosion or sedimentation complaint. The owner shall be given notice of the inspection. Such notice may be either verbal or in writing. Any person violating or failing, neglecting or refusing to obey an order issued by the administrator may be compelled in a proceeding instituted in the Circuit Court of the City of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy.~~
- (5) ~~The fees required for inspections conducted pursuant to this section are part of the required application fee. The fee required for inspections conducted following a runoff producing storm event shall be paid by the owner within 30 days of the date shown on an invoice provided to the owner by the city following such inspection. Nothing in this section shall prevent the administrator from taking any other action authorized by this ordinance.~~

**Sec. 10-41. Determination of noncompliance with plan; stop work orders.**

Upon a determination by the ~~program authority~~administrator that an owner has failed to comply with an approved erosion and sediment control plan, the administrator shall provide notice to a permittee or person responsible for carrying out the erosion and sediment control plan, and may issue an order requiring that all or part of the land-disturbing activities be

stopped, in accordance with the provisions of Code of Virginia § 62.1-44.15:58 and applicable state regulations following procedures shall apply:

- ~~(1) The program authority shall immediately serve upon the owner a written notice to comply. The notice shall (i) instruct the owner to take corrective measures immediately, when immediate action is necessary to prevent erosion or sedimentation problems; (ii) state specifically the measures needed to come into compliance with the approved plan; and (iii) state a reasonable time for compliance. The notice shall be served by certified mail to the address provided by the owner in the application for approval of the plan, by personal delivery to the owner, or by personal delivery to an agent or employee at the site of the permitted activities who is supervising such activities.~~
- ~~(2) If the owner fails to take corrective measures stated in the notice to comply within the time specified in the notice, the permit-issuing department may revoke any permit it has issued related to the land disturbing activity and the owner shall be deemed to be in violation of this article.~~
- ~~(3) If the owner fails, within the time specified in the notice, to take the corrective measures for compliance stated in the notice, the program authority, upon finding that such action is reasonably necessary to protect the public health, safety and welfare, may take all corrective measures it deems necessary in order to protect the public health, safety and welfare, and shall be entitled to recover the expenses of such action from the owner.~~
- ~~(4) Upon receipt of a sworn complaint of a violation of this article or of an approved erosion and sediment control plan, from an employee or representative of the program authority responsible for ensuring program compliance, the director of neighborhood development services or designee may, in conjunction with or subsequent to a notice of violation, 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 plan, requiring that all of the land disturbing activities be stopped until an approved plan and any required permits have been obtained.
  - ~~a. Where the alleged noncompliance is causing or is in imminent danger of causing harmful erosion of lands, sediment deposition in waters, or water quality problems within the watersheds of the Commonwealth, or where the land disturbing activities have commenced without an approved plan or any required permits, such an order may be issued whether or not the alleged violator has been issued a notice to comply. Otherwise, such an order may be issued only after the alleged violator has failed to comply with a notice to comply.~~
  - ~~b. A stop work order shall be served in the same manner as a notice to comply, and it 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.~~
  - ~~c. If the alleged violator has not obtained an approved plan or any required permits within seven (7) days from the date of service of a stop work order, the director~~~~

~~of neighborhood development services or his designee may issue an order to the owner requiring that all construction or other work on the site, other than corrective measures, be stopped until an approved plan and any required permits have been obtained. Such an order shall be served upon the owner by certified mail to the address specified in the permit application.~~

- ~~d. The owner may appeal the issuance of any stop-work order to the circuit court.~~
- ~~e. Any person violating or failing, neglecting or refusing to obey an order issued by the director of neighborhood development services or his designee may be compelled in a proceeding instituted in the circuit court to obey the order and to comply therewith, by injunction, mandamus or other appropriate remedy.~~
- ~~f. Upon completion and approval of corrective action or obtaining an approved plan or any required permits, the order shall immediately be lifted.~~
- ~~g. Nothing in this section shall prevent the director of neighborhood development services or his designee from taking any other action authorized by this chapter or by any other provision of law.~~

**Sec. 10-42. Certification of Pprogram personnel requirements.**

(a) An erosion and sediment control plan shall not be approved until it is reviewed by a certified plan reviewer.

(b) Inspections of land-disturbing activities shall be conducted by a certified inspector.

(c) The city's erosion and sediment control program may be carried out by one or more persons; however, at all times the city's program, at a minimum, shall consist of a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.

(d) The certifications required by this section shall be those granted by the state Board, as set forth within Code of Virginia § 62.1-44.15:53.

~~As required by state law, the city's erosion and sediment control program shall meet, within one (1) year following the adoption of this section, the following minimum standards for effectiveness:~~

~~(1) A conservation plan shall not be approved until it is reviewed by a certified plan reviewer;~~

~~(2) Inspections of land-disturbing activities shall be conducted by a certified inspector; and~~

~~(3) The city's erosion control program shall contain a certified program administrator, a certified plan reviewer and a certified project inspector, who may be the same person.~~

**Sec. 10-43. Penalties, injunctions and other legal actions.**

(a) Any person violating the provisions of this article shall, upon conviction, be guilty of a Class 1 misdemeanor.

(b) The following may apply to the circuit court for injunctive relief to enjoin a violation or a threatened violation of this article, without the necessity of showing that an adequate remedy at law does not exist:

- (1) The city; ~~and~~
- (2) The owner of property that has sustained damage or that is in imminent danger of being damaged; however, an owner of property shall not apply for injunctive relief unless (i) ~~he~~owner has notified in writing ~~both the administrator and~~ the person who has violated the provisions of this article, ~~and the program authority;~~ that a violation of this article has caused, or creates a probability of causing, damage to ~~his~~owner's property, and (ii) neither the person who has violated this article nor the ~~program authority~~administrator has taken corrective action within fifteen (15) days to eliminate the conditions which have caused, or create the probability of causing, damage to the owner's property.

(c) In addition to any criminal penalties provided ~~under this section for a violation of this chapter,~~ any person who violates any provision of this ~~article~~chapter may be liable to the city in a civil action for damages.

~~(d) Any person who violates any provision of this ordinance shall, upon a finding of the Charlottesville General District Court, be issued a civil penalty. The civil penalty for any one violation shall be not less than \$100 nor more than \$1,000. The civil penalty for violations listed within the schedule set forth following below shall be as set forth within the schedule. The administrator may issue a summons for collection of any civil penalty.~~

- ~~(1) There is hereby established a schedule of civil penalties for certain violations of this ordinance, and any civil penalty assessed by a court applicable to any person who is found to have violated violates the sections referenced in the schedule shall be in accordance with the schedule. any regulation or order of the board, any condition of a permit issued under this article, or any provision of this article. Such person, upon a finding of an appropriate general district court, shall be assessed a civil penalty in accordance with this schedule. An appropriate official or employee of the program authority, or a certified inspector for the city, may issue a summons for collection of the civil penalty and the action may be prosecuted by the city. Civil penalties shall be as set forth in the schedule below:~~

<u>Schedule of Violations Subject to Prescribed Civil Penalties</u>	Section	Penalty
Additional measures - failure to install additional measures as deemed necessary by the <del>zoning</del> administrator or his inspector once work has commenced	<del>10-38</del> <del>, 10-24</del>	\$100.00

Bond - failure to obtain bond	<del>10-23</del> <u>10-36</u>	\$100.00
<del>E&amp;S Conservation</del> plan - failure to submit if required by <del>program</del> <del>authority administrator</del>	<del>10-21</del> <u>10-35</u>	\$1000.00
<del>E&amp;S Conservation</del> plan - failure to comply with approved plan	<del>10-22</del> <u>10-35</u> <u>10-39</u>	<u>\$500.00</u> <u>\$100.00</u>
Corrections - failure to comply with mandatory corrections as issued on an E&S inspection notice or report	<u>10-40</u> <del>10-21</del> ; <del>10-24</del>	<u>\$500.00</u> <u>\$100.00</u>
Existing conditions - failure to submit plan or provide controls after receipt of notice	<u>10-21</u> <u>10-23</u>	<u>\$500.00</u> <u>\$100.00</u>
Inspection - failure to request <u>at the time(s) required by approved plan</u>	<u>10-39</u> 10-24	\$100.00
Land disturbing permit or approved plan - commencement of land disturbing activities without an approved permit or plan	<u>10-31</u> <del>10-22</del>	\$1,000.00
Land disturbing permit or approved plan - failure to comply with provisions	<u>10-39</u> <del>10-24</del>	<u>\$500.00</u> <u>\$100.00</u>
Live waterway - causing silt or debris to enter <u>when engaged in land disturbing activity without an approved plan and permit</u>	<u>10-31</u> <del>10-21</del>	<u>\$500.00</u> <u>\$100.00</u>
Stop work order - failure to cease work after issuance	<u>10-40</u> <del>10-24</del>	\$1000.00



(2) 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 ~~threeten~~ thousand dollars (~~\$310,000.00~~), 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 ten thousand dollars (\$10,000.00)~~. The assessment of a civil penalty pursuant to this subsection (d) shall be in lieu of criminal sanctions and shall preclude the prosecution of such violation as a misdemeanor ~~under section 10-18~~. In any trial for a scheduled violation, it shall be the burden of the city to show the liability of the violator by a preponderance of the evidence. An admission or finding of liability shall not be a criminal conviction for any purpose.

(e) Without limiting the remedies which may be obtained ~~under 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 two thousand dollars (\$2,000.00) for each violation. A civil action for such violation or failure may be brought by the city against such person.

(f) With the consent of any person who has violated or failed, neglected or refused to obey any regulation or order of the administrator; any condition of a permit; or any provision of this article or associated regulations, ~~the zoning administrator or city manager issued under this chapter any condition of a permit issued under this chapter or any provision of this chapter, the zoning~~ administrator may provide, in an order issued against such person, for the payment of civil charges for violations in specific sums, not to exceed two thousand dollars (\$2,000.00). Such civil charges shall be instead of any appropriate civil penalty which could be imposed under subsection (d) or (e) of this section.

(g) Any civil penalties assessed by a court pursuant to this section shall be paid into the city treasury. ~~However, 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.

Secs. 10-44—10-49. Reserved.

**2. That City Code Chapter 10, Article III (Stormwater Management) is hereby repealed, and replaced with the following provisions:**

**Sec. 10-50. Intent, purpose and authority.**

(a) Pursuant to Virginia Code §§ 62.1-44.15:27 and 9VAC25-870-20, this article is adopted to establish a Virginia Stormwater Management Program that will integrate stormwater management requirements with the city's erosion and sediment control program, the city's MS4 permit, flood insurance, flood plain management, and related federal and state permits and requirements, into a unified program. This unified program is intended to facilitate the submission and approval of plans, issuance of permits, payment of fees, and

coordination of inspection and enforcement activities into a more convenient and efficient manner for both the city and those responsible for compliance.

(b) This article is intended to be interpreted, administered and enforced in conjunction with the definitions and provisions of article I. References to “this article”, and references to “provisions of this article” shall be deemed to include (i) the provisions of article I of this chapter, and (ii) the provisions, criteria, and requirements of each federal or state statute, regulation, standard and specification adopted or referred to within articles I and III of this chapter.

**Sec. 10-51. Land disturbing permit required; exemptions.**

(a) No person shall engage in any land-disturbing activity until a stormwater management plan has been approved and a [land disturbing permit](#) ~~for such activity~~ has been issued by the Administrator in accordance with Sec. 10-9 of the city code.

(b) Except as may otherwise be required by federal law, the following activities are exempt from the provisions of paragraph (a), above:

- (1) Where such uses are permitted by the City’s zoning regulations: permitted surface or deep mining operations and projects, or oil and gas operations and projects conducted under the provisions of Title 45.1 of the Code of Virginia;
- (2) Where such uses are permitted by the City’s zoning regulations: the clearing of lands specifically for agricultural purposes and the management, tilling, planting, or harvesting of agricultural, horticultural, or forest crops, livestock feedlot operations, or as additionally set forth by the Board in regulations, including engineering operations as follows: construction of terraces, terrace outlets, check dams, desilting basins, dikes, ponds, ditches, strip cropping, lister furrowing, contour cultivating, contour furrowing, land drainage, and land irrigation; however, this exception shall not apply to harvesting of forest crops unless the area on which harvesting occurs is reforested artificially or naturally in accordance with the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1 of the Code of Virginia or is converted to bona fide agricultural or improved pasture use as described in Subsection B of § 10.1-1163 of Article 9 of Chapter 11 of Title 10.1 of the Code of Virginia;
- (3) Where such use is permitted by the City’s zoning regulations: single-family residences separately built and disturbing less than one acre and not part of a larger common plan of development or sale, including additions or modifications to existing single-family detached residential structures;
- (4) Land disturbing activities that disturb less than six thousand (6,000) square feet of land area, but only if the land area to be disturbed is not part of a common plan of development or sale;
- (5) Discharges to a sanitary sewer or a combined sewer system;

- (6) Activities under a state or federal reclamation program to return an abandoned property to an open land use, or to an agricultural use where permitted by the City's zoning ordinance;
- (7) Routine maintenance performed to maintain the original line and grade, hydraulic capacity, or original construction of a 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 subparagraph; and
- (8) Land disturbing activities conducted 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 Administrator shall be advised of the disturbance within seven (7) days of the commencement of the land-disturbing activity and compliance with the administrative requirements of this chapter is required within 30 days of commencing the land-disturbing activity.

**Sec. 10-52. Stormwater management program established.**

Pursuant to Virginia Code §§ 62.1-44.15:27 and 62.1-44.15:49, the city hereby establishes a Virginia stormwater management program (VSMP) for land-disturbing activities and adopts the Regulations promulgated by the Board, specifying standards and specifications for such programs. No grading, building, or other city permit, shall be issued for a property unless a permit has been issued by the administrator pursuant to Sec. 10-9 of this chapter.

**Sec. 10-53. Stormwater management plan required; contents.**

(a) A person shall not commence, conduct, or engage in any land disturbing activity until he-such person has submitted a stormwater management plan to the Administrator as part of the application required by sec. 10-9 and has obtained approval of the plan and a permit from the Administrator authorizing the commencement of land disturbing activity.

(b) Every stormwater management plan shall apply the stormwater management technical criteria set forth in sec. 10-54 to the entire land-disturbing activity. Individual lots within new residential, commercial or industrial subdivisions and developments shall not be considered separate land-disturbing activities, and the stormwater management plan for the entire subdivision or development shall govern the development of the individual parcels, including parcels developed under any subsequent owner(s).

(c) Every stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to subsurface runoff; and shall include the following:

- (1) A general description of the proposed stormwater management facilities and the mechanism through which the permanent facilities will be operated and maintained after construction is complete;
- (2) Contact information, including the name, address, and telephone number of the owner and the city tax map reference(s) and parcel number(s) of the property on which the land disturbing activity is to be conducted;
- (3) A narrative that includes (i) a description of current site conditions and (ii) a description of final site conditions upon completion of development;
- (4) Information on the type and location of stormwater discharges; information on the features to which stormwater is being discharged including surface waters or karst features, if present, and the pre-development and post-development drainage areas;
- (5) Information on the proposed stormwater management facilities, including:
  - (i) The type of facilities;
  - (ii) Location, including the address, latitude and longitude, and the sixth order hydrologic unit code in which the facilities are located;
  - (iii) Total area (expressed as acreage) treated;
  - (iv) Impervious area (expressed as acreage) treated;
  - (v) Amount of pollutants removed (expressed as a number of pounds of phosphorous per year); and
  - (vi) The surface waters or karst features, if present, into which the facility will discharge.
- (6) Hydrologic and hydraulic computations, including runoff characteristics;
- (7) Documentation and calculations verifying compliance with applicable water quality and quantity requirements. All stormwater runoff controls shall be designed and installed in accordance with the water quality and water quantity design criteria specified in sec. 10-54, and any additional standards or criteria set forth within the City's Standards and Design Manual;
- (8) A map or maps of the site that depicts the topography and other characteristics of the entire area of the land disturbing activity and proposed development, including:
  - (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 development site on such adjacent parcels;
- (vi) The limits of clearing and grading, and the proposed drainage patterns on the site;
- (vii) Proposed buildings, roads, parking areas, paved surfaces, utilities, and stormwater management facilities;
- (viii) Proposed land use(s), with tabulation of the percentage of surface area to be adapted to various uses, including but not limited to planned locations of utilities, streets, paved areas, and public and private easements; and
- (ix) A description of the proposed timing and/or phasing of land disturbing activities and development.

The land area depicted in the map shall include all land within the limits of a valid, approved preliminary or final site plan, or a valid, approved preliminary or final subdivision plat, for the proposed development, and the proposed land use(s) and improvements shown on such site plan or subdivision plat shall be the same as those depicted within the map.

- (9) Any other information, materials, requirements or provisions required by state Regulations, including, without limitation, 9VAC25-870-55 and the City's Standards and Design Manual.
- (10) If an operator intends to meet water quality and/or quantity requirements through the use of off-site compliance options, where applicable, then a letter of availability from the off-site provider must be included and the requirements of Virginia Code §62.1-44.15:35 must be satisfied. Approved off-site options must achieve the necessary nutrient reductions prior to the commencement of the applicant's land-disturbing activity, except as otherwise allowed by Virginia Code § 62.1-44.15:35.
- (11) Signature and seal by a professional, if any elements of the stormwater management plan includes activities within the scope of the practice of architecture, land surveying, landscape architecture, or engineering, or other activities regulated under Chapter 4 (§54.1-400 et seq.) of Title 54.1 of the Virginia Code.

(d) If land disturbing activity is for the purpose of establishing or modifying an individual single family detached dwelling, then, in accordance with applicable state Regulations, the administrator may enter into an agreement in lieu of a plan with a property owner. Any such agreement in lieu of a stormwater management plan shall refer to specific measures that shall be implemented by the property owner to comply with the requirements of this article for the construction of the dwelling.

**Sec. 10-54. 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, the city hereby adopts the following technical criteria:

(1) The technical criteria set forth in Part II B of the Regulations, as amended, §§ 9VAC25-870-62 *et seq.* (“Part II B Technical Criteria”); and

(2) The technical criteria set forth in Part II C of the Regulations, as amended, §§ 9VAC25-870-93 *et seq.* (“Part II C Technical Criteria”).

(b) The Part II B Technical Criteria shall apply to all regulated land disturbing activities, except as expressly set forth in subparagraphs (c) through (h), following below.

(c) Land disturbing activity shall be subject to the Part II C Technical Criteria, if coverage under the State General Permit was obtained, or land disturbance was otherwise lawfully commenced, prior to July 1, 2014.

(d) Land disturbing activity shall be considered grandfathered, and therefore subject to the Part II C Technical Criteria, as set forth within the provisions of 9VAC25-870-48.

(e) The Administrator may grant exceptions to the Part II B Technical Criteria or Part II C Technical Criteria, provided that (i) the exception is the minimum necessary to afford relief; (ii) reasonable and appropriate conditions are imposed so that the intent of the Act, the Regulations, and this article are preserved; (iii) granting the exception will not confer any special privileges, and (iv) exception requests are not based upon conditions or circumstances that are self-imposed or self-created. Economic hardship alone is not sufficient reason or justification for granting an exception. Notwithstanding the foregoing, the Administrator shall not have authority to approve the following:

(1) Waiver of the requirement of a permit for any land disturbing activity;

(2) Permission to use any BMP not found on the Virginia Stormwater BMP Clearinghouse Website; or a waiver or exception to the requirement for any control measure specifically approved by the Director of DEQ or the Board, except in accordance with Virginia Code §62.1-44.15:33(C). Notwithstanding the foregoing, the Administrator may approve the use of BMPs not found on the Virginia Stormwater BMP Clearinghouse Website for projects less than one (1) acre in size; or

(3) Exceptions to, or waiver of, post-development nonpoint nutrient runoff compliance requirements, unless the Administrator determines that offsite options permitted pursuant to 9VAC25-870-69 have been considered and found not available.

(f) Nothing in this section shall preclude construction of a stormwater management facility or BMP, or implementation of any technique or practice, to a more stringent standard at the developer’s option.

**Sec. 10-55. Permit conditions.**

(a) Every land disturbing permit approved by the Administrator for activities regulated by this article shall be subject to the following conditions, which shall be deemed incorporated into such permit, as if set forth therein verbatim:

- (1) The permittee shall take all reasonable steps to minimize or prevent any discharge that has a reasonable likelihood of adversely affecting human health or the environment;
- (2) The permittee shall at all times conduct land disturbing activities in accordance with the approved stormwater management plan and, when required, the SWPPP and all of its component parts and requirements;
- (3) The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control, and all related appurtenances, that are constructed, installed or used to achieve compliance with the requirements of this article and the approved stormwater management plan. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures;
- (4) The permittee shall promptly furnish to the Administrator any information that the Administrator may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit, or to determine compliance with the permit, or to determine the effect of a discharge on the quality of state waters, or such other information as the Administrator deems necessary to accomplish the purposes of this article;
- (5) The permittee shall allow the Administrator, or an authorized representative, to:
  - (i) Enter upon the site where regulated land disturbing activity or stormwater management facility is located, or where records are required to be kept;
  - (ii) Have access to and copy, at reasonable times, any records kept by the permittee in relation to the conduct and operations of any land disturbing activity and the design, specifications, installation, construction, and operation of stormwater management facility;
  - (iii) Sample or monitor, at reasonable times, for the purposes of determining compliance with requirements of this article, any substances or parameters at any location within the site;
- (6) Samples and measurements taken by the permittee for the purpose of monitoring shall be representative of the monitored activity. Monitoring results must be conducted according to test procedures and methods accepted by the State; analysis or analyses required to be performed by a laboratory shall be performed by an environmental laboratory certified under regulations adopted by the State's Department of General Services. Monitoring results shall be reported to the Administrator on a Discharge Monitoring Report (DMR) Form provided by the Administrator. If the permittee monitors any pollutant more frequently than required, using test procedures accepted by the State, the results of such monitoring shall be included in the calculation and reporting of data submitted within a required Discharge Monitoring Report;

- (7) The permittee shall retain records of all monitoring, including all monitoring information, calibration and maintenance records, and original strip chart recordings for continuous monitoring instrumentation, copies of monitoring reports, and records of all data used to complete any submission required by this article. In addition to the foregoing, records of monitoring shall include:
  - i. Date, exact place, and time of sampling or measurements;
  - ii. Identity of the individual(s) who performed the sampling or measurements;
  - iii. The date(s) on which analyses were performed;
  - iv. The analytical technique(s) or method(s) used;
  - v. Results of analysis/ analyses; and
  - vi. Copies of Discharge Monitoring Reports.
- (8) The permittee shall give advance notice to the Administrator:
  - i. of any planned physical alteration(s) or addition(s) to the site or to the stormwater management facilities described within the permit, when such alteration(s) or addition(s) may meet State criteria for determining whether a facility is a new source, or when such alteration(s) or addition(s) could significantly change the nature of, or increase the quantity of, pollutants discharged.
  - ii. of any planned changes to the stormwater management facilities described within the permit, and
  - iii. of any activity that may result in noncompliance with the requirements of this article or with any of the conditions set forth within this section;
- (9) The permit issued by the Administrator is not transferable to any other person, unless the permittee provides evidence to the Administrator that the requirements of 9VAC25-870-620 have been satisfied in relation to a transfer of any required State General Permit;
- (10) Reports of compliance or noncompliance with, or any progress reports in regard to, any compliance schedule established by the Administrator shall be submitted no later than 14 days following each schedule date;
- (11) The permittee shall immediately report any noncompliance which may endanger health or the environment. Information regarding any such noncompliance shall be provided orally within 24 hours after the permittee becomes aware of the circumstances. The oral report shall be followed by a written report, which must be received by the Administrator no later than 5 days after the permittee became aware of the circumstances. The written report shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and, if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. Examples of noncompliance that require reports pursuant to this condition include, without limitation: any unanticipated bypass that exceeds an applicable effluent limitation; any upset that exceeds an applicable effluent limitation; and violation of a maximum daily discharge limitation for any pollutants required by the State to be reported within 24 hours.
- (12) Any noncompliance not reported under conditions (9) or (10), above, shall be reported by the permittee to the Administrator in writing at the time the next monitoring report is submitted to the Administrator. The report of noncompliance



shall contain the same information required for reports made pursuant to condition (10), above;

- (13) Where the land disturbing activity is also subject to coverage under the State General Permit, or other State permit, the permittee shall comply with all conditions and requirements of such state permit(s), including, without limitation, those conditions set forth within 9VAC25-870-430. The permittee shall provide to the Administrator copies of submissions, reports, and information required to be given to the State, simultaneously with transmittal to the State. In addition to any remedies under state law and the Regulations, state permit noncompliance shall be grounds for enforcement action under this article, and for termination, revocation, reissuance or modification of the permit issued by the administrator pursuant to sec. 10-9 of article I;
- (14) All applications, reports and information submitted to the Administrator shall be signed and certified in the manner, and by such person(s) prescribed within 9VAC25-870-370;
- (15) In the event the permittee becomes aware that it failed to submit any relevant facts in any application to the Administrator for a permit, or that it submitted incorrect information to the Administrator in any application, or any other submission, report, or document required by this article, the permittee shall promptly submit the relevant facts or correct information to the Administrator;
- (16) All stormwater management control devices and facilities, and other techniques for management of the quality and/or quantity of stormwater runoff, shall be designed, installed, implemented, constructed and maintained in accordance with the approved stormwater management plan approved for the development and all other applicable requirements of this article; and
- (17) The permit issued by the Administrator may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a modification, revocation and reissuance or termination, or a notification of planned changes or anticipated noncompliance, shall not operate as a stay of the permittee's obligation to perform the requirements of any condition referenced in this section.

(e) Within 60 days of the completion of the requirements of all of the permit conditions, the performance guarantee required by sec. 10-9(3), or the unexpended or unobligated portion thereof, will be refunded or terminated.

**Sec. 10-56. Long-term maintenance of permanent stormwater facilities.**

(a) The Administrator shall require the provision of long-term responsibility for and maintenance of stormwater management facilities and other techniques specified to manage the quality and quantity of stormwater. Such requirements shall be set forth in an instrument recorded in the local land records prior to permit issuance. Every such instrument shall:

- (1) Be submitted to the Administrator for review and approval prior to the approval of the stormwater management plan;

- (2) Include an express statement that the maintenance responsibility shall run with the land;
- (3) Provide a right of ingress and egress to and from stormwater management facilities and other techniques, sufficient to provide all necessary access to the property for purposes of maintenance and regulatory inspections;
- (4) Provide for inspections and maintenance and the submission of inspection and maintenance reports to the Administrator; and
- (5) Clearly recognize a right of enforcement by all appropriate public bodies, including state and local authorities.

(b) Except as provided below, the City shall have no responsibility for maintenance or repair of stormwater management facility, BMP or other technique (individually and collectively, a “facility”) designed and implemented to manage the quality and quantity of stormwater. Acceptance or approval of an easement, subdivision plat, site plan or other plan of development shall not constitute acceptance by the city or the Administrator of responsibility for the maintenance, repair or replacement of any such facility. As used in this paragraph, “maintenance, repair or replacement” shall include, without limitation, cleaning of the facility, maintenance of property adjacent to the facility, installation, repair or replacement of fencing surrounding a facility, and posting of signs indicating the name of the entity responsible for maintenance of the facility.

- (1) In the event that any common interest community, as defined in Virginia Code §55-528, desires to cede or transfer responsibility for maintenance, repair and replacement of a stormwater management facility, or other technique for management of the quality and quantity of stormwater, to the city, (i) the common interest community and city council must enter into a written contract, or other instrument, executed by both parties, and (ii) prior to execution of any contract or instrument, the city council shall have accepted the responsibility ceded or transferred by the common interest community by resolution.
- (2) In the event that any person, including any entity other than a common interest community, desires to cede or transfer responsibility for maintenance, repair and replacement of a facility to the city, the process for the city’s approval and acceptance of such responsibility shall be the same as specified in subparagraph (b)(1), preceding above.

(c) No facility shall be identified on any subdivision plat, site plan or other plan of development, as being dedicated for public use, unless such facility is to be constructed as part of the city-owned and –operated public storm sewer system, and is subject to a performance guarantee requiring the facility to be designed and constructed in accordance with city standards.

(d) If the Administrator (i) has developed a strategy for addressing maintenance of stormwater management facilities designed to treat stormwater runoff primarily from an individual residential lot on which such facilities are located, and (ii) is satisfied that there an enforceable mechanism exists by which future maintenance of such facilities will be addressed, then the recorded instrument referenced in paragraph (a), above, need not be required for stormwater management facilities designed for and implemented to treat stormwater runoff from such individual residential lot.

**Sec. 10-57. Monitoring and inspections; information.**

(a) The Administrator, or any authorized agent of the Administrator, shall inspect land-disturbing activity during construction for:

- (1) Compliance with the approved erosion and sediment control plan;
- (2) Compliance with the approved stormwater management plan and applicable permit conditions;
- (3) Development, modification, updating, and implementation of a SWPPP, including, without limitation, any component pollution prevention plan, when required; and
- (4) Development, modification, updating, and implementation of any additional control measures necessary to address a TMDL.

(b) Following completion of the installation or construction of stormwater management facilities, the Administrator shall conduct periodic inspections, to determine whether measures are being maintained as provided in the approved plan, or to investigate a complaint pertaining to the plan. Such post-construction inspections shall be conducted by the Administrator at least once every five (5) years.

(c) A construction record drawing shall be submitted to the Administrator upon completion of the installation or construction of any permanent stormwater management facility or facilities, including, without limitation, permanent BMPs. The construction record drawing shall be signed and sealed by a licensed professional, as defined in sec. 10-5, and shall contain a certification of such professional that the stormwater management facility or facilities have been constructed in accordance with the approved stormwater management plan.

(d) Consistent with the authority conferred within Virginia Code §62.1-44.15:39, the Administrator, or an authorized agent of the Administrator, may, at reasonable times and under reasonable circumstances, enter any site or property, for the purpose of obtaining information or conducting surveys or investigations necessary in the enforcement of the provisions of this article.

(e) The Administrator may also enter any establishment or upon any property, public or private, at reasonable times and under reasonable circumstances, for the purpose of initiating or maintaining appropriate actions which are required by the permit conditions associated with a land-disturbing activity, when a permittee, after proper notice, has failed to take acceptable action within the time specified.

(f) Pursuant to Virginia Code §62.1-44.15:40, the Administrator may require every permit applicant or permittee, any operator, or any other person subject to permit requirements, to furnish when requested such application materials, plans, specifications, and other pertinent information as may be necessary to determine the effect of his discharge on the quality of state waters, or such other information as may be necessary to accomplish the purposes of this article.

**Sec. 10-58. Modification of approved stormwater management plans.**

(a) The Administrator may require that an approved stormwater management plan be amended, within a time prescribed by the Administrator, to address any deficiencies noted during any inspection.

(b) Any modification(s) of an approved stormwater management plan shall be allowed only after review and written approval of the Administrator. Following receipt of a complete request, supported by such information deemed necessary by the Administrator to determine compliance with the requirements of this article and article I, the Administrator shall have 60 days to act on the request, either by approval or by disapproval set forth in writing. The Administrator's review and decision shall be based on the requirements set forth within the Regulations, and those set forth within this article and within article I.

**Sec. 10-59. Enforcement.**

(a) If the Administrator determines that there is a failure to comply with a permit or any permit conditions, or if the Administrator determines there is an unauthorized discharge, the Administrator shall serve notice upon the permittee or other person responsible for carrying out the permit conditions, by any of the following: verbal warnings, written inspection reports, notices of corrective action, consent special orders, and notices to comply. Written notices shall be served by mailing with confirmation of delivery to the address specified in the permit application, or by delivery at the site of the land disturbing 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, or the permit may be revoked by either the Administrator or the Board.

(2) If a permittee fails to comply with a notice issued in accordance with this section within the time specified, the Administrator may issue an order ("stop work 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. A stop work order shall be in writing, and shall become effective upon service on the person (i) by mailing, with confirmation of delivery, sent to the person's address specified in the land records of the city, or (ii) by personal delivery by an agent of the Administrator. However, if the Administrator finds that any 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 is otherwise substantially impacting water quality, it may issue, without advance notice or hearing, an emergency stop work 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 a stop work order is not complying with the terms thereof, the Administrator may institute a proceeding for an injunction, mandamus, or other appropriate remedy in accordance with this section.

(b) Any person violating or failing, neglecting, or refusing to obey any provision of this article, any order issued hereunder, or any permit condition, may be compelled in a proceeding instituted in the circuit court for the city of Charlottesville to obey same and to comply therewith by injunction, mandamus or other appropriate remedy, as set forth within Virginia Code §§62.1-44.15:42 and 62.1-44.15:48(D). If the Administrator applies to a court to enjoin a violation or a threatened violation of the provisions of this article, the Administrator shall not be required to show that an adequate remedy at law exists.

(c) A person who violates this article may be subject to criminal prosecution and criminal penalties, as follows:

- (1) Any person who willfully or negligently violates any provision of this article, any regulation or order of the Board, any order of the Administrator, any order of DEQ, any permit condition, or any order of a court, shall be guilty of a misdemeanor punishable by confinement in jail for not more than 12 months and a fine of not less than \$2,500 nor more than \$32,500, either or both. A defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.
- (2) Any person who knowingly violates any provision of this article, any regulation or order of the Board, any order of the Administrator or of DEQ, or any permit condition, or any order of a court issued as herein provided, or who knowingly makes any false statement in any application, form or submission required by this article, or who knowingly renders inaccurate any monitoring device or method required to be maintained, shall be guilty of a felony punishable by a term of imprisonment of not less than one year nor more than three years, or in the discretion of the jury, or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not less than \$5,000 or more than \$50,000 for each violation. A

defendant that is not an individual shall, upon conviction of a violation under this subsection be sentenced to pay a fine of not less than \$10,000.

- (3) Any person who knowingly violates any provision of this article, and who knows at that time that he or she thereby places another person in imminent danger of death or serious bodily harm, shall, upon conviction, be guilty of a felony punishable by a term of imprisonment of not less than two years or more than 15 years and a fine of not more than \$250,000, either or both. A defendant that is not an individual shall, upon conviction of a violation under this provision, be sentenced to pay a fine not exceeding the greater of one million dollars (\$1 million) or an amount that is three times the economic benefit realized by the defendant as a result of the offense. The maximum penalty shall be doubled with respect to both fine and imprisonment, for any subsequent conviction of the same person under this provision.

(d) Any person who violates any provision of this article, any order issued hereunder, or any permit condition, shall be subject to a civil penalty imposed by the Administrator, not to exceed \$32,500 per day for each violation. Each day a violation continues shall constitute a separate offense. The Administrator may issue a summons for collection of the civil penalty and the action may be prosecuted in the appropriate court.

- (1) Violations for which a penalty may be imposed under this paragraph (e) shall be as follows:

- (i) No state permit registration;
- (ii) No approved stormwater management plan;
- (iii) No SWPPP; an incomplete SWPPP; SWPPP not available for review at the site;
- (iv) No approved erosion and sediment control plan;
- (v) Failure to install stormwater BMPs or erosion and sediment controls;
- (vi) Stormwater BMPs or erosion and sediment controls improperly installed or maintained;
- (vii) Failure to conduct land disturbing activity in accordance with operational requirements established by Regulations or by this chapter;
- (viii) Failure to conduct required inspections;
- (ix) Incomplete, improper, or missed inspections; and
- (x) Discharges not in compliance with the requirements of Section 9VAC50-60-1170 of the State General Permit.

- (2) Any civil penalties assessed by a court as a result of a civil summons issued by the Administrator shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

(e) With the consent of any person who has violated or failed, neglected or refused to obey any provision or requirement of this article or any regulation, statute, ordinance, standard or specification referenced herein, or any permit, or any permit condition, the Administrator may provide, in an order issued against such person, for the payment of civil charges for violations

in specific sums, not to exceed the limit specified in paragraph (d), above. Any such civil charges shall be instead of any civil penalty that could be imposed under this section. Any civil charges collected shall be paid into the treasury of the city, to be used as specified within Virginia Code §62.1-44.15:48(A).

**3. That the provisions of this Ordinance shall become effective July 1, 2014.**

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## CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA

Agenda Date:	May 5, 2014
Action Required:	Public Hearing and Approval
Presenter:	Melissa Thackston, Grants Coordinator
Staff Contacts:	Melissa Thackston, Grants Coordinator
<b>Title:</b>	Approval of FY 2014-2015 Annual Action Plan

**Background and Discussion:** The Consolidated Plan sets forth goals to support our community development needs over a five-year period (2014 – 2018) for low and moderate income individuals in the City and counties that make up the Planning District. The current five year Consolidated Plan was adopted last year at the May 6, 2013 City Council Meeting.

Each year localities are required to complete an Action Plan that details goals and objectives to be carried out in the upcoming program year. This document also serves as the City's application for Community Development Block Grant (CDBG) funds and the Planning District's application for HOME funds. It is due, in its final form, to HUD on May 15<sup>th</sup> (or later date if award notice is delayed). On March 11th, the proposed FY 14-15 CDBG and HOME budget came before the Planning Commission for a public hearing and the CDBG and HOME budgets were approved by Council at the April 21<sup>st</sup> meeting following an additional public hearing held at the Water Street Center of the Thomas Jefferson Planning District Commission on April 3<sup>rd</sup>

This is the second Action Plan of the 2014-2018 Consolidated Plan. The Action Plan has been advertised for a thirty-day comment period (March 24<sup>th</sup> – April 24<sup>th</sup> 2014) before being sent to HUD for approval. The Housing Directors Council had an opportunity to make comments on the Action Plan at their March 18 and April 15, 2014 meeting. Comments received from Housing Directors have been incorporated into the Action Plan. The plan is in draft form pending approval from Council at the May 5<sup>th</sup> meeting. If HUD has not released final award amounts by the May 5<sup>th</sup> meeting, the sections of the Action Plan that discuss funding will be updated.

**Community Engagement:** The Thomas Jefferson Planning District Commission held a public hearing on the Action Plan on April 3<sup>rd</sup>. Comments received to date have been incorporated into the Action Plan. Any additional comments will be incorporated into the final plan.

**Alignment with City Council's Vision and Priority Areas:** Approval of this agenda item aligns directly with Council's vision for Charlottesville to have **Economic Sustainability, Quality Housing Opportunities for All**, and to be **America's Healthiest City**.

**Alternatives:** No alternatives are proposed.

**Budgetary Impact:** The HOME program requires the City to provide a 25% match. The sum necessary to meet the FY 2014-2015 match is approximately \$16,000, which will need to be appropriated out of the Charlottesville Housing Fund (CP-0084) at a future date. The Action Plan will have no additional budgetary impacts.

**Recommendation:** Staff recommends approval of the 2014-2015 Action Plan of the 2014-2018 Consolidated Plan. Funds will not be available or eligible to be spent until HUD releases funds.

**Attachments:** Draft 2014-2015 Action Plan

# Executive Summary

## AP-05 Executive Summary - 91.200(c), 91.220(b)

### 1. Introduction

The Consolidated Plan for 2013-2017 set forth an overall plan to support community development needs, including housing needs, in the Thomas Jefferson Planning District and in the City of Charlottesville. The Action Plan for FY 2014-2015 re-affirms the goals expressed in the region's Consolidated Plan, which was developed and adopted in May 2013. The Consolidated Plan is a five-year document that guides the specific activities developed annually through the Action Plan. Both the Consolidated Plan and the annual Action Plan guide the use of federal Community Development Block Grant (CDBG) funds received annually by the City of Charlottesville and the federal HOME funds received annually by the Thomas Jefferson HOME Consortium. Consortium members include the City of Charlottesville and the counties of Albemarle, Fluvanna, Greene, Louisa, and Nelson.

The member governments of the Thomas Jefferson Planning District agreed on an equal share basis of HOME funds available to each participating government (with towns included with their respective counties) with the exception of 15% of the total HOME funds, which are reserved for the Community Housing Development Organization (CHDO) set aside. The CHDO funds are rotated among the participating localities. The City of Charlottesville has been designated the lead agency for the HOME Consortium and the Thomas Jefferson Planning District Commission the designated Program Manager for the Consortium.

### 2. Summarize the objectives and outcomes identified in the Plan

This could be a restatement of items or a table listed elsewhere in the plan or a reference to another location. It may also contain any essential items from the housing and homeless needs assessment, the housing market analysis or the strategic plan.

This Action Plan identifies specific activities to be undertaken with the funds during the program year from July 1, 2014 to June 30, 2015 as a means of fulfilling the goals stated in the Consolidated Plan. The objectives and outcomes of the Annual Action Plan for 2014-2015 are linked to the priority 5-Year Goals for set forth in the Consolidated Plan.

### 3. Evaluation of past performance

This is an evaluation of past performance that helped lead the grantee to choose its goals or projects.

Past performance of the City of Charlottesville's CDBG program and the HOME Consortium is recorded annually in the Consolidated Annual Performance Evaluation Report (CAPER) and submitted to HUD. These documents are also available online at the TJPDC website.

Prior to updating the Consolidated Plan, the Housing Directors performed a self-evaluation of the full scope of the 5-year plan, essentially adding up accomplishments recorded in the previous CAPERs. The purpose of the self-assessment was to set realistic goals, based on what has been achievable in the past given a certain level of funding. The evaluation revealed that some activities fell short of the goals in the previous Consolidated Plan, while others greatly exceeded the goals. In general downpayment assistance and other activities designed to promote first-time homeownership lagged. This is mostly accounted for by the significant downturn in the housing market that occurred during the Consolidated Plan timeline, and the resulting paucity of prospective homebuyers. On the other hand, housing rehabilitations exceeded projected outcomes in most of the localities, based on a greater demand for these activities. The Consolidated Plan establishes broad 5-year goals, but the annual Action Plans allow the City of Charlottesville and the HOME Consortium the ability to adapt to current market conditions and changing needs.

#### **4. Summary of Citizen Participation Process and consultation process**

Summary from citizen participation section of plan.

Citizen participation was a central component of the Consolidated Plan update, completed in May 2013. This process established the goals and priorities for the Consolidated Plan, which continues to inform the annual Action Plans. For this Action Plan, a draft for public comment was made available on March 24, 2014 for a 30-day public comment period. An advertisement on the availability of the draft and the comment period appeared in the Sunday, March 23, 2014 issue of the Daily Progress, the newspaper of general circulation in the region. A public hearing was held at the Thomas Jefferson Planning District Commission's (TJPDC's) regular meeting on April 3, 2014. The draft plan was posted on the TJPDC web site and an article on the availability of the plan was included in TJPDC's April 1, 2014 News Brief, reaching an audience of approximately 1,200 people across the region. Prior to adoption, the City Council held a public hearing on May 5, 2014.

The City of Charlottesville has been including citizens in the planning process of the use of CDBG funds through both public hearings and citizen committees. The process began in September with an initial public hearing to discuss the general priorities of the CDBG funding and the selection of the priority neighborhood. Following the public hearing and recommendations from City Council, the CDBG Task Force—made up of residents from each Target Neighborhood, as well as the School Board, Planning Commission, Social Agencies and one at large member—met to discuss how City Council directives could be implemented. The CDBG Task Force issued an RFP for potential projects and reviewed submissions through February 2014. A list of projects recommended for funding by the CDBG Task Force was taken before a Joint Public Hearing of the Planning Commission and City Council in March 2014. The comments from the public hearing were very positive and the projects proposed to receive funding

were recommended for approval by the Planning Commission. City Council reviewed the CDBG budget during their April 7 and 21, 2014 meeting, making a few small changes to what was recommended.

## **5. Summary of public comments**

This could be a brief narrative summary or reference an attached document from the Citizen Participation section of the Con Plan.

Comments were received on the Consolidated Plan throughout all phases of the process. A total of four public hearings were held during the Annual Action Plan process.

At the April 3 Public Hearing at the TJPDC meeting, written comments submitted by the Jefferson Area Board for Aging were read: Comments urged Albemarle County to adopt the revised Albemarle County Housing Policy, supported Home Sharing and Accessory Dwelling Units (ADUs) as two creative options for a more effective and viable approach to the housing of an aging population, and encouraged the Virginia Housing Development Authority (VHDA) to revise their policies regarding financing of Community Land Trust (CLT) projects.

At the April 15 Housing Directors Council meeting, HOME allocations for Louisa County were revised, to commit HOME funds in addition to the CHDO set-aside funds, to the development of a four-unit apartment building in Louisa County. Funding for rehabilitation of sub-standard owner-occupies houses was reduced to \$25,000 of HOME funds plus \$22,000 of Program Income.

Comments from the May 5 Public Hearing at the Charlottesville City Council will be added after that meeting.

## **6. Summary of comments or views not accepted and the reasons for not accepting them**

For the Action Plan process, no comments made during public meetings have been rejected, and all were incorporated into the Action Plan to the extent that they were relevant to the intent of the plan.

## **7. Summary**

This one-year Action Plan is consistent with the goals established in the five-year Consolidated Plan.

The Consolidated Plan contains data and narrative to establish the current and anticipated needs, a description of the current and anticipated market context within which any activities would be conducted, and a strategic plan designed to meet identified needs with the anticipated funding available. The plan governs housing and community development actions undertaken by the City of Charlottesville and the HOME Consortium between 2013 and 2018.

**PR-05 Lead & Responsible Agencies - 91.200(b)**

**1. Agency/entity responsible for preparing/administering the Consolidated Plan**

The following are the agencies/entities responsible for preparing the Consolidated Plan and those responsible for administration of each grant program and funding source.

<b>Agency Role</b>	<b>Name</b>	<b>Department/Agency</b>
Lead Agency	CHARLOTTESVILLE	
CDBG Administrator	CHARLOTTESVILLE	
HOPWA Administrator		
HOME Administrator	CHARLOTTESVILLE	HOME Consortium at TJPDC
HOPWA-C Administrator		

**Table 1 – Responsible Agencies**

**Narrative**

The Thomas Jefferson Planning District Commission (TJPDC) and City of Charlottesville have jointly taken a leadership role in preparing the Annual Action Plan, with assistance from members of the Thomas Jefferson HOME Consortium. The PDC serves as the administrator for the HOME Consortium. The City of Charlottesville is the administrator for the CDBG entitlement funds.

**Consolidated Plan Public Contact Information**

For more information on the 2014 Action Plan, please contact Billie Campbell at [bcampbell@tjpd.org](mailto:bcampbell@tjpd.org) or 434-979-7310 ext 230 or Melissa Thackston at [thackston@charlottesville.org](mailto:thackston@charlottesville.org) or 434-970-3182.

## **AP-10 Consultation - 91.100, 91.200(b), 91.215(l)**

### **1. Introduction**

This section lists the agencies and organizations that have been consulted for information and direction on the Action Plan. Many of the consulting parties influenced the Action Plan, typically in the areas specific to the expertise of the organization.

**Provide a concise summary of the jurisdiction's activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health and service agencies (91.215(l)).**

There are a few umbrella organizations in the region that serve to bring together housing providers and human services and health agencies. The Disabilities Services Board (DSB), which is staffed by the Thomas Jefferson Planning District Commission, convenes a range of people and organizations in the region with an interest in serving people with a broad range of disabilities. A needs assessment gathering was held by the DSB in January 2013 to assess progress made toward addressing needs previously recorded, and to consider new needs that had arisen in recent years. The group discusses a range of topics, including housing accessibility, assistive technology, advocacy and law, social needs, and health services available in the region.

**Describe coordination with the Continuum of Care and efforts to address the needs of homeless persons (particularly chronically homeless individuals and families, families with children, veterans, and unaccompanied youth) and persons at risk of homelessness.**

The Continuum of Care was consulted during the annual action plan. The CoC, under the leadership of the Thomas Jefferson Area Coalition for the Homeless (TJACH), provided information on actions for the homeless and other special needs. TJACH is working on an update of the Community Plan to End Homelessness, to reflect changing needs, changing federal funding priorities, and greater collaboration.

**Describe consultation with the Continuum(s) of Care that serves the jurisdiction's area in determining how to allocate ESG funds, develop performance standards for and evaluate outcomes of projects and activities assisted by ESG funds, and develop funding, policies and procedures for the operation and administration of HMIS**

The City of Charlottesville, Albemarle County, and the Thomas Jefferson Planning District Commission have seats as public members of TJACH's Governance Board. That body establishes funding priorities and develops the regional submission for ESG funds.

### **2. Agencies, groups, organizations and others who participated in the process and consultations**

1	<b>Agency/Group/Organization</b>	ALBEMARLE HOUSING IMPROVEMENT PROGRAM (AHIP)
	<b>Agency/Group/Organization Type</b>	Housing
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Lead-based Paint Strategy
	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	Participation in HOME Consortium Housing Directors meetings.
2	<b>Agency/Group/Organization</b>	PIEDMONT HOUSING ALLIANCE
	<b>Agency/Group/Organization Type</b>	Housing Service-Fair Housing Regional organization Community Development Financial Institution
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Non-Homeless Special Needs Market Analysis Anti-poverty Strategy
	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	Participation in the HOME Consortium Housing Directors meetings.
3	<b>Agency/Group/Organization</b>	FLUVANNA / LOUISA HOUSING FOUNDATION
	<b>Agency/Group/Organization Type</b>	Housing Services - Housing Regional organization



	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Non-Homeless Special Needs Market Analysis Anti-poverty Strategy
	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	Participation in HOME Consortium Housing Directors meetings.
4	<b>Agency/Group/Organization</b>	NELSON COUNTY COMMUNITY DEVELOPMENT FOUNDATION
	<b>Agency/Group/Organization Type</b>	Housing Services - Housing
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Non-Homeless Special Needs Market Analysis Anti-poverty Strategy
	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	Participation in the HOME Consortium Housing Directors meetings.

5	<b>Agency/Group/Organization</b>	SKYLINE CAP
	<b>Agency/Group/Organization Type</b>	Housing Services - Housing Regional organization
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Non-Homeless Special Needs Market Analysis Anti-poverty Strategy
	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	Participation in the HOME Consortium Housing Directors meetings.
6	<b>Agency/Group/Organization</b>	THOMAS JEFFERSON PLANNING DISTRICT COMMISSION
	<b>Agency/Group/Organization Type</b>	Housing Regional organization Planning organization
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy Non-Homeless Special Needs Market Analysis Anti-poverty Strategy

	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	The Thomas Jefferson Planning District Commission houses and staffs the HOME Consortium and helped co-write the Annual Action Plan.
7	<b>Agency/Group/Organization</b>	Jefferson Area Board of Aging
	<b>Agency/Group/Organization Type</b>	Housing Services - Housing Services-Elderly Persons Services-Persons with Disabilities Services-Health
	<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Non-Homeless Special Needs
	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	JABA provided written comments in support of the Annual Action plan at the April 3 Planning District Commission meeting. Comments urged Albemarle County to adopt the revised Albemarle County Housing Policy, supported Home Sharing and Accessory Dwelling Units (ADUs) as two creative options for a more effective and viable approach to the housing of an aging population, and encouraged the Virginia Housing Development Authority (VHDA) to revise their policies regarding financing of Community Land Trust (CLT) projects.
8	<b>Agency/Group/Organization</b>	CHARLOTTESVILLE REDEVELOPMENT AND HOUSING AUTHORITY
	<b>Agency/Group/Organization Type</b>	Housing PHA
	<b>What section of the Plan was addressed by Consultation?</b>	Public Housing Needs
	<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	CRHA responded to request for information/update.
9	<b>Agency/Group/Organization</b>	Thomas Jefferson Area Coalition for the Homeless
	<b>Agency/Group/Organization Type</b>	Housing

<b>What section of the Plan was addressed by Consultation?</b>	Housing Need Assessment Homeless Needs - Chronically homeless Homeless Needs - Families with children Homelessness Needs - Veterans Homelessness Needs - Unaccompanied youth Homelessness Strategy
<b>Briefly describe how the Agency/Group/Organization was consulted. What are the anticipated outcomes of the consultation or areas for improved coordination?</b>	Provided information and update.

**Table 2 – Agencies, groups, organizations who participated**

**Identify any Agency Types not consulted and provide rationale for not consulting**

A wide range of organizations were informed about the Annual Action Plan update process and kept informed of public meetings and draft reviews by email throughout the course of the update. These organizations include business groups, social service providers, neighborhood associations, real estate and housing organizations, anti-poverty organizations, and health and mental health organizations. Not all opted to participate in providing feedback or comments.

The full list of those notified is as follows: Agencies and Organizations - The Charlottesville Health Department of the Thomas Jefferson Health District, United Way, Independence Resource Center, County of Albemarle, Salvation Army, Region Ten Community Services, Monticello Area Community Action Agency, Charlottesville Redevelopment and Housing Authority, Albemarle Housing Improvement Program, Piedmont Housing Alliance, Jefferson Area Board For Aging, County of Albemarle Housing Office, Public Housing Association of Residents, On Our Own-Drop-In Center, and Charlottesville/Albemarle Legal Aid Society; Local Media - The Daily Progress, Fluvanna Review, Greene County Record, The Central Virginia, and Cville Weekly; Neighborhood Associations – Belmont-Carlton, Blue Ridge Commons, Burnett Commons, Fifeville, Forest Hills, Fry’s Spring, Greenbrier, Jefferson Park Avenue, Johnson Village, Kellytown, Lewis Mountain, Little High, Locust Grove, Martha Jefferson, Meadows, Meadowbrook Hills/Rugby, North Downtown, Orangedale, Ridge Street, Rose Hill, Starr Hill, University, Venable, Westhaven, Willoughby, Woodhaven, Woolen Mills and 10th and Page.

**Other local/regional/state/federal planning efforts considered when preparing the Plan**

Name of Plan	Lead Organization	How do the goals of your Strategic Plan overlap with the goals of each plan?
Continuum of Care	TJCAH	The revised Community Plan to End Homelessness overlaps with the Consolidated Plan, as described in SP-60.
Fair Housing and Equity Assessment	TJPDC	The FHEA was written as part of a sustainable Communities Regional Planning Grant. Goals encourage regional provision of affordable housing and integration of neighborhoods overlap with this plan.
Comprehensive Plans	Charlottesville and Albemarle County	The Comprehensive Plans of these two jurisdictions were updated concurrently with the Consolidated Plan, and the housing chapters of these plans mutually support the Annual Action Plan.
Community Health Improvement Plan	TJ Health District	This regional health plan was consulted for the Needs Assessment of the Consolidated Plan for any health-related impacts that may result from housing and community development in the region.

**Table 3 – Other local / regional / federal planning efforts**

**Narrative**

## **AP-12 Participation - 91.401, 91.105, 91.200(c)**

### **1. Summary of citizen participation process/Efforts made to broaden citizen participation Summarize citizen participation process and how it impacted goal-setting**

Citizen participation was a central component of the Consolidated Plan update, with members of the public and representatives of stakeholder organizations giving substantive input during every stage of the process. A public meeting was held on October 9, 2012 as a kick-off. The 25 participants were equipped with the tools necessary to evaluate needs and inform goals on their own. The CPD maps website was demonstrated, as well as new data on housing and transportation affordability. Staff drafting the plan update received guidance for who should be involved, what materials should be used, and how input should be received during the update process.

A dedicated webpage was established on the TJPDC website, and materials and meeting notices were published there as they became available. Notifications were also made to an email list of interested parties. A detailed online survey was administered between January 15, 2013 and February 12, 2013. A total of 93 respondents ranked priority needs for the area, suggested new needs, ranked previous goals for each localities, and suggested new goals. The results of the survey, as aggregated, were directly incorporated into the Priority Needs and Goal sections of the plan.

A needs assessment forum was held in January 2013 with the Disabilities Services Board to assess the housing and community development needs unique to the population of people with disabilities.

The plan process was completed with a series of events held between March and May of 2013. They were widely publicized through flyers, a newspaper advertisement, and email blasts. All outreach for these events explicitly encouraged low-income and minority members of the public to participate. The events included a public hearing with the TJPDC to hear the results of the needs assessment/market analysis, a larger community workshop with 27 people in attendance, a month-long public comment period for a draft of the plan, and a final public hearing with the City of Charlottesville to review and approve a final draft prior it submission. Participants at each of these venues were directly given opportunities to comment on findings and draft goals of the plan. All comments were recorded, and have been used to revise the content of the plan.

**Citizen Participation Outreach**

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (If applicable)
1	Newspaper Ad	Minorities Persons with disabilities Non-targeted/broad community	A notice of public hearings and public comment period for the Annual Action Plan was published in the Daily Progress on Sunday, March 23, 2014. All interested citizens were invited to comment on the draft plan.	None received.	N/A	
2	Public Hearing	Minorities Persons with disabilities Non-targeted/broad community	A public hearing was held at the City of Charlottesville City Council's September 3, 2014 regular meeting to discuss the general priorities for CDBG funding and to select a priority neighborhood.	None received.	N/A	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (if applicable)
3	Public Hearing	Minorities Persons with disabilities Non-targeted/broad community	A public hearing was held at the Thomas Jefferson Planning District Commission's regular meeting on April 3, 2014.	The Jefferson Area Board on Aging submitted written comments which are discussed in the consultation section of this plan.	See consultation section of this plan.	
4	Public Hearing	Minorities Persons with disabilities Non-targeted/broad community	A public hearing was held at the City of Charlottesville City Council's regular meeting on May 5, 2014.	to be added.		



Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (if applicable)
5	Public Meeting	Minorities Persons with disabilities Non-targeted/broad community	The City of Charlottesville CDBG task force comprising Council appointed residents from each target neighborhood, a School Board member, a Planning Commissioner, and social agency representative, and an at large member met four times over December and January to review applications for funding and make recommendation to City Council.	None received.	N/A	

Sort Order	Mode of Outreach	Target of Outreach	Summary of response/attendance	Summary of comments received	Summary of comments not accepted and reasons	URL (if applicable)
6	Internet Outreach	Non-targeted/broad community	The draft plan was posted on the TJPDC web site and an article on the availability of the plan was included in the TJPDC's April 1, 2014 News Brief, reaching an audience of approximately 1,200 people across the region.	None received.	N/A	<a href="http://www.tjpd.org/housing/index.asp">www.tjpd.org/housing/index.asp</a>

**Table 4 – Citizen Participation Outreach**

## Expected Resources

### AP-15 Expected Resources - 91.420(b), 91.220(c)(1,2)

#### Introduction

This section lists the expected resources available through the HOME and CDBG programs to be applied toward meeting the goals of this plan.

#### Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	400,000	0	4,224	404,224	1,531,145	The expected amount is based on the annual allocation for FY13-14. Subsequent years are also based on this amount. Prior year resources include projects that have been awarded but not yet set up in IDIS.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA	534,766	69,300	300,000	904,066	2,352,264	The expected amount is based on the annual allocation for FY13-14. Subsequent years are also based on this amount.

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Reminder of ConPlan \$	Narrative Description
			Annual Allocation: \$	Program Income: \$	Prior Year Resources: \$	Total: \$		
Other	public - local	Acquisition Admin and Planning Homebuyer assistance Homeowner rehab Housing Multifamily rental new construction Multifamily rental rehab New construction for ownership	1,520,000	0	0	1,520,000	6,500,000	Each year, the City of Charlottesville allocates a portion of its CIP to the Charlottesville Housing Fund, to increase and support affordable housing units and programs throughout the City.

Table 1 - Expected Resources – Priority Table

**Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied**

In previous years, the Consortium accrued match from the City of Charlottesville, which provides a 25% match for each project, and Habitat for Humanity projects. Projects of the Greater Charlottesville Habitat for Humanity are not all HOME assisted, but all are HOME match-eligible. Match funds from Habitat for Humanity include below market interest rate loans and soft-second mortgages forgiven over the lifetime of the loan. Excess match from prior years totaled \$4,334,004 at the end of Program Year 2013. With the use of these two match sources, the

Consortium typically runs a surplus in available match each year. Especially, with decreased funding allocations anticipated in the future, the Consortium is confident that all matching requirements will be satisfied.

**If appropriate, describe publically owned land or property located within the jurisdiction that may be used to address the needs identified in the plan**

There is no publically-owned land that is anticipated for use within the Consolidated Plan timeframe to meet needs identified in this plan.

**Discussion**

The annual allocations presented above are estimates, based on the best information currently available. Any additional monies above the estimated amount will be added to projects in proportion to the current distribution of funds represented in this plan. Likewise, any reduction in funds from what is anticipated will be removed from projects in proportion to the current distribution of funds represented in this plan.

## Annual Goals and Objectives

### AP-20 Annual Goals and Objectives - 91.420, 91.220(c)(3)&(e)

#### Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Refine Housing Policy	2013	2018	Affordable Housing	Albemarle County	Risk of homelessness Rental cost-burden High costs of home purchase Neighborhood Segregation Increase in Doubling-Up Regulatory Barriers	CDBG: \$0 HOME: \$0	Other: 2 Other
2	Affordable Rental Assistance	2013	2018	Affordable Housing	City of Charlottesville Albemarle County	Risk of homelessness Rental cost-burden High costs of home purchase Neighborhood Segregation Increase in Doubling-Up Regulatory Barriers	CDBG: \$0 HOME: \$0	Tenant-based rental assistance / Rapid Rehousing: 700 Households Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
3	Provide Rehabilitative Services to Homes	2013	2018	Affordable Housing	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Substandard Housing Conditions Energy Inefficiency	CDBG: \$84,180 HOME: \$145,394	Homeowner Housing Rehabilitated: 26 Household Housing Unit
4	Assist First-Time Homebuyers	2013	2018	Affordable Housing	City of Charlottesville	High costs of home purchase	CDBG: \$8,830 HOME: \$145,330	Direct Financial Assistance to Homebuyers: 13 Households Assisted
5	Provide Emergency Repairs	2013	2018	Affordable Housing	City of Charlottesville Albemarle County	Substandard Housing Conditions Energy Inefficiency	HOME: \$26,728	Other: 5 Other
6	Promote Workforce Housing Near Jobs	2013	2018	Affordable Housing Non-Housing Community Development	City of Charlottesville Albemarle County	Rental cost-burden High costs of home purchase Transportation Access Barriers	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 2 Other



Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
7	Encourage New Housing with Supportive Services	2013	2018	Non-Homeless Special Needs	Albemarle County	Transportation Access Barriers Housing Options for Special Needs Lack of Shelter for Homeless Discrimination in the Housing Market	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 2 Other
8	Participate in State Housing Programs	2013	2018	Affordable Housing Public Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County	Programs Consistent with the Consolidated Plan	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 2 Other
9	Support Job Improvement	2013	2018	Non-Housing Community Development	City of Charlottesville	Lack of jobs that pay a sufficient wage Lack of Training Needed by Employers	CDBG: \$81,506	Public service activities other than Low/Moderate Income Housing Benefit: 180 Persons Assisted Businesses assisted: 20 Businesses Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
10	Maintain or Add New Affordable Housing	2013	2018	Affordable Housing	City of Charlottesville	Risk of homelessness Rental cost-burden High costs of home purchase Housing Options for Special Needs Lack of Shelter for Homeless Current Homeowner Cost-Burden Increase in Doubling-Up Substandard Housing Conditions Energy Inefficiency	HOME: \$41,712	Direct Financial Assistance to Homebuyers: 5 Households Assisted

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
11	Support Housing Programs	2013	2018	Affordable Housing Public Housing Homeless	City of Charlottesville	Risk of homelessness Lack of jobs that pay a sufficient wage Rental cost-burden Lack of Training Needed by Employers High costs of home purchase Transportation Access Barriers Housing Options for Special Needs Lack of Child Care Options Lack of Shelter for Homeless Regional Cooperation Current Homeowner Cost-Burden Neighborhood Segregation Increase in Doubling-Up Untapped Institutional Potential Substandard Housing Conditions Lack of Safe Public	CDBG: \$78,029 CHF: \$1,500,000	Other: 1 Other
					Annual Action Plan 2014		25	

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
12	Support Programs to Assist Special Needs	2013	2018	Homeless Non-Homeless Special Needs	City of Charlottesville	Housing Options for Special Needs Lack of Shelter for Homeless Discrimination in the Housing Market	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other
13	Support Homeless and Transition to Independence	2013	2018	Affordable Housing Homeless	City of Charlottesville	Lack of Shelter for Homeless Increase in Doubling-Up Ex-Offender Reentry Discrimination in the Housing Market	CDBG: \$10,000	Public service activities other than Low/Moderate Income Housing Benefit: 150 Persons Assisted
14	Redevelop Public Housing for Integration	2013	2018	Public Housing Non-Housing Community Development	City of Charlottesville	Risk of homelessness Rental cost-burden Neighborhood Segregation Increase in Doubling-Up Discrimination in the Housing Market	CDBG: \$0 HOME: \$0 CHF: \$0	Rental units rehabilitated: 376 Household Housing Unit

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
15	Revise Codes to Improve Housing	2013	2018	Affordable Housing Public Housing Non-Housing Community Development	City of Charlottesville	Risk of homelessness Rental cost-burden High costs of home purchase	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other
16	Encourage Increase in Financial Assistance	2013	2018	Affordable Housing Public Housing Non-Housing Community Development	City of Charlottesville	Risk of homelessness Rental cost-burden High costs of home purchase Lack of Child Care Options Lack of Shelter for Homeless Current Homeowner Cost-Burden Neighborhood Segregation Increase in Doubling-Up Substandard Housing Conditions Energy Inefficiency Ex-Offender Reentry	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 6 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
17	Promote Local Funds for Housing	2013	2018	Affordable Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	Fluvanna County	Risk of homelessness Rental cost-burden High costs of home purchase Housing Options for Special Needs	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other
18	Create New Rental Units	2013	2018	Affordable Housing	Louisa County Greene County	Risk of homelessness Rental cost-burden Regional Cooperation	HOME: \$72,136	Rental units constructed: 4 Household Housing Unit
19	Support Infrastructure Improvements	2013	2018	Non-Housing Community Development	City of Charlottesville Greene County	Transportation Access Barriers	CDBG: \$200,000	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 100 Persons Assisted
20	Address Special Needs	2013	2018	Homeless Non-Homeless Special Needs Non-Housing Community Development	Greene County	Housing Options for Special Needs Lack of Child Care Options Lack of Shelter for Homeless	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
22	Operate Transitional Home	2013	2018	Homeless Non-Homeless Special Needs	Louisa County	Risk of homelessness Housing Options for Special Needs Lack of Shelter for Homeless Ex-Offender Reentry	CDBG: \$0 HOME: \$0 CHF: \$0	Homelessness Prevention: 9 Persons Assisted
23	Encourage Smaller Homes	2013	2018	Affordable Housing	Louisa County	Risk of homelessness Rental cost-burden High costs of home purchase Current Homeowner Cost-Burden Energy Inefficiency	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other
24	Develop Rental Units Consistent with Rural Area	2013	2018	Affordable Housing	Nelson County	Risk of homelessness Rental cost-burden Increase in Doubling-Up	HOME: \$70,161	Rental units constructed: 2 Household Housing Unit

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
25	Collaborate to Fund Projects	2012	2013	Affordable Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	Nelson County	Risk of homelessness Lack of jobs that pay a sufficient wage Rental cost-burden Lack of Training Needed by Employers High costs of home purchase Transportation Access Barriers Housing Options for Special Needs Lack of Child Care Options Lack of Shelter for Homeless Regional Cooperation Current Homeowner Cost-Burden Neighborhood Segregation Increase in Doubling-Up Untapped Institutional Potential Substandard Housing Conditions Lack of Safe Public	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other
					Annual Action Plan 2014		30	



Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
26	Promote Jobs and Housing for Special Needs	2013	2018	Affordable Housing Non-Housing Community Development	Nelson County	Lack of jobs that pay a sufficient wage Lack of Training Needed by Employers Housing Options for Special Needs Substandard Housing Conditions Discrimination in the Housing Market	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other
27	Support Housing and Services for Elderly	2013	2018	Affordable Housing Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Housing Options for Special Needs Current Homeowner Cost-Burden	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
28	Support Victims of Domestic Violence	2013	2018	Affordable Housing Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Risk of homelessness Housing Options for Special Needs Increase in Doubling-Up	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 1 Other
29	Foster Regional Collaboration	2013	2018	Affordable Housing Public Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Regional Cooperation	CDBG: \$0 HOME: \$53,477 CHF: \$0	Other: 6 Other
30	Raise Awareness of Rental Housing Needs	2013	2018	Affordable Housing Public Housing Homeless Non-Homeless Special Needs	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Risk of homelessness Rental cost-burden Increase in Doubling-Up	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 6 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
31	Educate and Counsel on Fair Housing	2013	2018	Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Neighborhood Segregation Discrimination in the Housing Market	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 6 Other
32	Provide Jobs through Section 3 Contracts	2013	2018	Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Lack of jobs that pay a sufficient wage	CDBG: \$200,000	Other: 6 Other
33	Collect Housing and Community Development Data	2013	2018	Affordable Housing Public Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Regional Cooperation	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 6 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
34	Leverage Institutional Resources	2013	2018	Affordable Housing Public Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Untapped Institutional Potential	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 6 Other

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
35	Expand Financing Capacity	2013	2018	Affordable Housing Public Housing Homeless Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Risk of homelessness Lack of jobs that pay a sufficient wage Rental cost-burden Lack of Training Needed by Employers High costs of home purchase Transportation Access Barriers Housing Options for Special Needs Lack of Child Care Options Lack of Shelter for Homeless Regional Cooperation Current Homeowner Cost-Burden Neighborhood Segregation Increase in Doubling-Up Untapped Institutional Potential Substandard Housing Conditions Lack of Safe Public	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 6 Other
					Annual Action Plan 2014		35	

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
36	Promote Accessory Dwelling Units	2013	2018	Affordable Housing Non-Homeless Special Needs	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Risk of homelessness Rental cost-burden Current Homeowner Cost-Burden Regulatory Barriers	CDBG: \$0 HOME: \$0 CHF: \$0	Other: 6 Other
37	Conduct Training Sessions	2013	2018	Homeless Non-Homeless Special Needs Non-Housing Community Development	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County	Lack of Training Needed by Employers	CDBG: \$161,085	Public service activities other than Low/Moderate Income Housing Benefit: 13 Persons Assisted Businesses assisted: 20 Businesses Assisted Other: 6 Other
38	Create new homeowner units	2013	2017	Affordable Housing	Fluvanna County Town of Columbia	Risk of homelessness Rental cost-burden High costs of home purchase Substandard Housing Conditions	HOME: \$74,842	Homeowner Housing Added: 1 Household Housing Unit

**Table 2 – Goals Summary**

**Goal Descriptions**

1	<b>Goal Name</b>	Refine Housing Policy
	<b>Goal Description</b>	The City of Charlottesville and Albemarle County continue to review and revise their Affordable Housing Policies as needed. No funding directly allocated towards this goal.
2	<b>Goal Name</b>	Affordable Rental Assistance
	<b>Goal Description</b>	Continue to provide approximately 700 households with Housing Choice Vouchers.
3	<b>Goal Name</b>	Provide Rehabilitative Services to Homes
	<b>Goal Description</b>	
4	<b>Goal Name</b>	Assist First-Time Homebuyers
	<b>Goal Description</b>	
5	<b>Goal Name</b>	Provide Emergency Repairs
	<b>Goal Description</b>	
6	<b>Goal Name</b>	Promote Workforce Housing Near Jobs
	<b>Goal Description</b>	Outcome Indicator of '2 Other' reflects the two localities of Charlottesville and Albemarle's commitment to consider the placement of workforce housing near jobs when making housing decisions. No funds directly allocated to this goal.
7	<b>Goal Name</b>	Encourage New Housing with Supportive Services
	<b>Goal Description</b>	Outcome Indicator of '2 Other' reflects Charlottesville and Albemarle's commitment to encourage housing providers to include supportive services within their new projects. No funds directly allocated towards this goal.

8	<b>Goal Name</b>	Participate in State Housing Programs
	<b>Goal Description</b>	Outcome Indicator of '2 Other' reflects the City of Charlottesville and Albemarle County's commitment to participate in state programs that help further accomplish the goals of the Consolidated Plan. No funds directly allocated towards this goal.
9	<b>Goal Name</b>	Support Job Improvement
	<b>Goal Description</b>	
10	<b>Goal Name</b>	Maintain or Add New Affordable Housing
	<b>Goal Description</b>	
11	<b>Goal Name</b>	Support Housing Programs
	<b>Goal Description</b>	Outcome Indicator '1 Other' reflects the City of Charlottesville's commitment to support housing programs through the Charlottesville Housing Fund. As of the submission of the Action Plan, actual projects and expected outcomes are unknown.
12	<b>Goal Name</b>	Support Programs to Assist Special Needs
	<b>Goal Description</b>	Outcome indicator reflects the City of Charlottesville's commitment to support programs to assist special needs. No funds directly allocated towards this goal.
13	<b>Goal Name</b>	Support Homeless and Transition to Independence
	<b>Goal Description</b>	
14	<b>Goal Name</b>	Redevelop Public Housing for Integration
	<b>Goal Description</b>	No funds directly allocated towards this goal.
15	<b>Goal Name</b>	Revise Codes to Improve Housing
	<b>Goal Description</b>	Outcome Indicator of '1 Other' reflects the City of Charlottesville's plan to review and revise codes to improve housing. No funds directly allocated towards this goal.
16	<b>Goal Name</b>	Encourage Increase in Financial Assistance
	<b>Goal Description</b>	Outcome Indicator of '6 Other' reflects the Jurisdictions' commitment to try and encourage local officials and other founding sources to provide more funds to support affordable housing programs.



17	<b>Goal Name</b>	Promote Local Funds for Housing
	<b>Goal Description</b>	Outcome Indicator of '1 Other' reflects Fluvanna County's staff commitment to encourage local officials to provide local funding to support affordable housing projects.
18	<b>Goal Name</b>	Create New Rental Units
	<b>Goal Description</b>	
19	<b>Goal Name</b>	Support Infrastructure Improvements
	<b>Goal Description</b>	
20	<b>Goal Name</b>	Address Special Needs
	<b>Goal Description</b>	Outcome indicator '1 Other' reflects Greene County's commitment to addressing the needs of Special Needs population. No funds directly allocated towards this goal.
22	<b>Goal Name</b>	Operate Transitional Home
	<b>Goal Description</b>	No funds directly allocated towards this goal in FY 13.
23	<b>Goal Name</b>	Encourage Smaller Homes
	<b>Goal Description</b>	Outcome Indicator of '1 Other' reflects Louisa County's commitment to encourage the development of smaller sized homes as a way to address the priority needs listed. No funds directly allocated towards this goal.
24	<b>Goal Name</b>	Develop Rental Units Consistent with Rural Area
	<b>Goal Description</b>	
25	<b>Goal Name</b>	Collaborate to Fund Projects
	<b>Goal Description</b>	No funds directly allocated towards this goal.
26	<b>Goal Name</b>	Promote Jobs and Housing for Special Needs
	<b>Goal Description</b>	No funds directly allocated towards this goal.

27	<b>Goal Name</b>	Support Housing and Services for Elderly
	<b>Goal Description</b>	No funds directly allocated towards this goal.
28	<b>Goal Name</b>	Support Victims of Domestic Violence
	<b>Goal Description</b>	No funds directly allocated towards this goal.
29	<b>Goal Name</b>	Foster Regional Collaboration
	<b>Goal Description</b>	Outcome Indicator of '6 Other' reflects the 6 localities of the HOME Consortium and Housing Directors' Council working together to address the priority needs of the region. No funds directly allocated towards this goal.
30	<b>Goal Name</b>	Raise Awareness of Rental Housing Needs
	<b>Goal Description</b>	The outcome indicator of '6 Other' reflects the six localities of the HOME Consortium's commitment to raise awareness of rental housing needs. No funds directly allocated towards this goal.
31	<b>Goal Name</b>	Educate and Counsel on Fair Housing
	<b>Goal Description</b>	Outcome Indicator of '6 Other' reflects the six localities of the HOME Consortiums' commitment to Educate and Counsel of Fair Housing and to reduce the impediments found in the AI. No funds directly allocated towards this goal.
32	<b>Goal Name</b>	Provide Jobs through Section 3 Contracts
	<b>Goal Description</b>	Outcome Indicator of '6 Other' reflects the six localities' of the HOME Consortium commitment to the greatest extent feasible to provide jobs through Section 3 contracts. The City of Charlottesville now requires "Section 3" compliance on all local affordable housing projects, even if no federal funds are involved.
33	<b>Goal Name</b>	Collect Housing and Community Development Data
	<b>Goal Description</b>	Outcome Indicator of '6 Other' reflects the six localities' commitment to work together to collect housing and community development data to better assess how the priority needs are being addressed. No funds directly allocated towards this goal.
34	<b>Goal Name</b>	Leverage Institutional Resources
	<b>Goal Description</b>	Outcome Indicator '6 Other' reflects the six localities commitment to leveraging institutional resources, such as the University of Virginia, to help address the priority needs of the region. No funds directly allocated towards this goal.
35	<b>Goal Name</b>	Expand Financing Capacity
	<b>Goal Description</b>	Outcome Indicator '6 Other' reflects the six localities' commitment to improve their own and other partner agencies' financing capacity in order to address the priority needs of the region. No funds directly allocated towards this goal.

<b>36</b>	<b>Goal Name</b>	Promote Accessory Dwelling Units
	<b>Goal Description</b>	Outcome Indicator '6 Other' reflects the six localities commitment to the greatest extent allowed by local ordinance, to promote accessory dwelling units as a way to address the priority needs listed. No funds directly allocated towards this goal.
<b>37</b>	<b>Goal Name</b>	Conduct Training Sessions
	<b>Goal Description</b>	Outcome Indicator of '6 Other' reflects the six localities commitment to conduct training sessions or support other agencies conducting training sessions to improve the self-sufficiency of residents in the region.
<b>38</b>	<b>Goal Name</b>	Create new homeowner units
	<b>Goal Description</b>	

## AP-35 Projects - 91.420, 91.220(d)

### Introduction

The following projects are planned to be initiated within the following fiscal year, in order to achieve the goals previously stated in the Action Plan with available resources through the HOME and CDBG programs.

#	Project Name
1	10th and Page Block by Block Priority Neighborhood MC-03K
2	Community Investment Collaborative MC-18C
3	Barrett Early Learning Center MC 03M
4	Seedplanters MC-18C
5	Small Business Development MC-18C
6	C4K Web Development MC-18C
7	CALM IDA Match MC-05
8	CAYIP MC-05H
9	C4K Camps and Workshops MC- 05H
10	OAR Reentry MC- 05
11	VIEW Career Training MC- 05H
12	Admin and Planning MC- 21A
13	Albemarle Rehab HOME MC 14A
14	Fluvanna First Time Homebuyer MC 05R
15	Fluvanna Rehabilitation MC 14A
16	Greene First Time Homebuyer MC 05R
17	Greene Rehabilitation MC 14A
18	Louisa First Time Homebuyer MC 05R
19	Louisa rental development CHDO MC 12
20	Nelson First Time Homebuyer MC 05R
21	Nelson Rehabilitation MC 14A
22	Nelson Rental Development MC 12
23	Charlottesville First Time Homebuyer HOME MC 05R
24	Charlottesville Rehabilitation HOME MC 14A
25	HOME Administration MC 21A

**Table 3 – Project Information**

### Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The needs were prioritized through the Needs Assessment and an online survey, and are presented in order of priority in SP-25. Not all goals have projects identified, because there is not enough funding available in the current fiscal year, or expected to be available in the near future, to address all needs

identified.

## AP-38 Project Summary

### Project Summary Information

1	<b>Project Name</b>	10th and Page Block by Block Priority Neighborhood MC-03K
	<b>Target Area</b>	City of Charlottesville 10th and Page
	<b>Goals Supported</b>	Support Infrastructure Improvements
	<b>Needs Addressed</b>	Lack of Safe Public Places
	<b>Funding</b>	CDBG: \$132,325
	<b>Description</b>	10th and Page, specifically the area known as the 'Block by Block' project, has been named the FY 14-15 Priority Neighborhood. Work will focus on pedestrian safety improvements.
	<b>Target Date</b>	6/30/2015
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	Improvements will be focused within the 'Block by Block' area of the 10th and Page neighborhood. Family composition comprises singles, families with children, elderly, disabled, and unrelated individuals living together.
	<b>Location Description</b>	The Block by Block area is bounded by Page and Grady St. and from 10th to 12th St. in the 10th and Page area of the City of Charlottesville.
	<b>Planned Activities</b>	Specific activities not known at this time. The plan will be updated with specifics at a future date following input from area residents.
2	<b>Project Name</b>	Community Investment Collaborative MC-18C
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement Conduct Training Sessions
	<b>Needs Addressed</b>	Lack of jobs that pay a sufficient wage
	<b>Funding</b>	CDBG: \$12,500
	<b>Description</b>	CIC will be working with low-income individuals to help them start or improve micro-enterprise businesses through technical assistance, education, and funding.
	<b>Target Date</b>	

	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	Funds will be used to provide at least 20 scholarships to entrepreneurs/businesses to attend CIC.
<b>3</b>	<b>Project Name</b>	Barrett Early Learning Center MC 03M
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement
	<b>Needs Addressed</b>	Lack of Child Care Options
	<b>Funding</b>	CDBG: \$12,500
	<b>Description</b>	BELC will be making improvements to its facility.
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 30 low-mod kids will benefit.
<b>4</b>	<b>Project Name</b>	Seedplanters MC-18C
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement Conduct Training Sessions
	<b>Needs Addressed</b>	Lack of jobs that pay a sufficient wage
	<b>Funding</b>	CDBG: \$150,000
	<b>Description</b>	Seedplanters will be working with low-income women entrepreneurs and provide technical assistance on business development and management. Upon completing the training program, some businesses will receive a grant to help them get started.
	<b>Target Date</b>	

	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 5 entrepreneurs/businesses will benefit.
<b>5</b>	<b>Project Name</b>	Small Business Development MC-18C
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Maintain or Add New Affordable Housing Conduct Training Sessions
	<b>Needs Addressed</b>	Lack of jobs that pay a sufficient wage
	<b>Funding</b>	CDBG: \$50,500
	<b>Description</b>	Through the Office of Economic Development, eligible small business with have the opportunity to receive technical assistance and aid to address issues or shortcomings that are affecting their success.
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	Funds will benefit at least 10 businesses.
<b>6</b>	<b>Project Name</b>	C4K Web Development MC-18C
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement Conduct Training Sessions
	<b>Needs Addressed</b>	Lack of jobs that pay a sufficient wage
	<b>Funding</b>	CDBG: \$46,500
	<b>Description</b>	Computers4Kids will work with qualified small businesses to develop websites and web marketing for them in order to reach more customers.
	<b>Target Date</b>	



	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 6 businesses will be assisted.
<b>7</b>	<b>Project Name</b>	CALM IDA Match MC-05
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Assist First-Time Homebuyers Conduct Training Sessions
	<b>Needs Addressed</b>	High costs of home purchase
	<b>Funding</b>	CDBG: \$5,000
	<b>Description</b>	CALM will provide matching grants to eligible individuals that are saving towards purchasing a home, attending college, or starting a business.
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 3 people will benefit.
<b>8</b>	<b>Project Name</b>	CAYIP MC-05H
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement Conduct Training Sessions
	<b>Needs Addressed</b>	Lack of Training Needed by Employers
	<b>Funding</b>	CDBG: \$5,000
	<b>Description</b>	Community Attention will provide Youth Internship to income qualified youths as a way for them to gain real-life work experience.
	<b>Target Date</b>	

	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 2 people will benefit.
<b>9</b>	<b>Project Name</b>	C4K Camps and Workshops MC- 05H
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement Conduct Training Sessions
	<b>Needs Addressed</b>	Lack of Training Needed by Employers
	<b>Funding</b>	CDBG: \$18,500
	<b>Description</b>	Computers 4 Kids will provide summer camps for teens as well as advance study workshops for their teen participants.
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 75 people will benefit.
<b>10</b>	<b>Project Name</b>	OAR Reentry MC- 05
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement Support Homeless and Transition to Independence
	<b>Needs Addressed</b>	Risk of homelessness Lack of Training Needed by Employers Transportation Access Barriers Ex-Offender Reentry
	<b>Funding</b>	CDBG: \$15,000

	<b>Description</b>	OAR will provide reentry services to recently released offenders as well as case management for the Coming Home to Work placement program.
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 150 people will benefit.
<b>11</b>	<b>Project Name</b>	VIEW Career Training MC- 05H
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Support Job Improvement Conduct Training Sessions
	<b>Needs Addressed</b>	Lack of Training Needed by Employers
	<b>Funding</b>	CDBG: \$16,500
	<b>Description</b>	The Department of Social Services will provide specialized career training for their VIEW clients.
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	At least 10 people will benefit.
<b>12</b>	<b>Project Name</b>	Admin and Planning MC- 21A
	<b>Target Area</b>	City of Charlottesville

**Goals Supported**

- Refine Housing Policy
- Affordable Rental Assistance
- Assist First-Time Homebuyers
- Provide Emergency Repairs
- Promote Workforce Housing Near Jobs
- Encourage New Housing with Supportive Services
- Provide Rehabilitative Services to Homes
- Participate in State Housing Programs
- Support Job Improvement
- Maintain or Add New Affordable Housing
- Support Housing Programs
- Support Programs to Assist Special Needs
- Support Homeless and Transition to Independence
- Redevelop Public Housing for Integration
- Revise Codes to Improve Housing
- Encourage Increase in Financial Assistance
- Promote Local Funds for Housing
- Create New Rental Units
- Support Infrastructure Improvements
- Address Special Needs
- Operate Transitional Home
- Encourage Smaller Homes
- Develop Rental Units Consistent with Rural Area
- Collaborate to Fund Projects
- Promote Jobs and Housing for Special Needs
- Support Housing and Services for Elderly
- Support Victims of Domestic Violence
- Foster Regional Collaboration
- Raise Awareness of Rental Housing Needs
- Educate and Counsel on Fair Housing
- Provide Jobs through Section 8 Contracts
- Collect Housing and Community Development Data
- Leverage Institutional Resources
- Expand Financing Capacity
- Promote Accessory Dwelling Units

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<b>Needs Addressed</b>	<p>Risk of homelessness  Lack of jobs that pay a sufficient wage  Rental cost-burden  Lack of Training Needed by Employers  High costs of home purchase  Transportation Access Barriers  Housing Options for Special Needs  Lack of Child Care Options  Lack of Shelter for Homeless  Regional Cooperation  Current Homeowner Cost-Burden  Neighborhood Segregation  Increase in Doubling-Up  Untapped Institutional Potential  Substandard Housing Conditions  Lack of Safe Public Places  Energy Inefficiency  Ex-Offender Reentry  Discrimination in the Housing Market  Regulatory Barriers  Programs Consistent with the Consolidated Plan</p>
<b>Funding</b>	CDBG: \$80,000
<b>Description</b>	Admin and Planning support.
<b>Target Date</b>	
<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
<b>Location Description</b>	
<b>Planned Activities</b>	

<b>13</b>	<b>Project Name</b>	Albemarle Rehab HOME MC 14A
	<b>Target Area</b>	Albemarle County
	<b>Goals Supported</b>	Provide Rehabilitative Services to Homes
	<b>Needs Addressed</b>	Substandard Housing Conditions
	<b>Funding</b>	HOME: \$81,845
	<b>Description</b>	Complete 7 rehab projects
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>14</b>	<b>Project Name</b>	Fluvanna First Time Homebuyer MC 05R
	<b>Target Area</b>	Fluvanna County
	<b>Goals Supported</b>	Assist First-Time Homebuyers
	<b>Needs Addressed</b>	High costs of home purchase
	<b>Funding</b>	HOME: \$22,000
	<b>Description</b>	Assist 2 first time homebuyers
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>15</b>	<b>Project Name</b>	Fluvanna Rehabilitation MC 14A
	<b>Target Area</b>	Fluvanna County
	<b>Goals Supported</b>	Provide Rehabilitative Services to Homes
	<b>Needs Addressed</b>	Substandard Housing Conditions

	<b>Funding</b>	HOME: \$56,845
	<b>Description</b>	Rehabilitate or replace 2 substandard owner occupied homes
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>16</b>	<b>Project Name</b>	Greene First Time Homebuyer MC 05R
	<b>Target Area</b>	Greene County
	<b>Goals Supported</b>	Assist First-Time Homebuyers
	<b>Needs Addressed</b>	High costs of home purchase
	<b>Funding</b>	HOME: \$8,300
	<b>Description</b>	Assist 1 first time homebuyer
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>17</b>	<b>Project Name</b>	Greene Rehabilitation MC 14A
	<b>Target Area</b>	Greene County
	<b>Goals Supported</b>	Provide Rehabilitative Services to Homes
	<b>Needs Addressed</b>	Substandard Housing Conditions
	<b>Funding</b>	HOME: \$60,845
	<b>Description</b>	Rehabilitate 8 owner-occupied homes
	<b>Target Date</b>	

	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>18</b>	<b>Project Name</b>	Louisa First Time Homebuyer MC 05R
	<b>Target Area</b>	Louisa County
	<b>Goals Supported</b>	Assist First-Time Homebuyers
	<b>Needs Addressed</b>	High costs of home purchase
	<b>Funding</b>	HOME: \$2,000
	<b>Description</b>	Assist 2 first time homebuyers
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>19</b>	<b>Project Name</b>	Louisa rental development CHDO MC 12
	<b>Target Area</b>	Louisa County
	<b>Goals Supported</b>	Maintain or Add New Affordable Housing Create New Rental Units Develop Rental Units Consistent with Rural Area
	<b>Needs Addressed</b>	Rental cost-burden
	<b>Funding</b>	HOME: \$122,060
	<b>Description</b>	Develop a four-unit apartment building in Louisa County
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	



	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>20</b>	<b>Project Name</b>	Nelson First Time Homebuyer MC 05R
	<b>Target Area</b>	Nelson County
	<b>Goals Supported</b>	Assist First-Time Homebuyers
	<b>Needs Addressed</b>	High costs of home purchase
	<b>Funding</b>	HOME: \$10,000
	<b>Description</b>	Assist 1 first time homebuyer
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>21</b>	<b>Project Name</b>	Nelson Rehabilitation MC 14A
	<b>Target Area</b>	Nelson County
	<b>Goals Supported</b>	Provide Rehabilitative Services to Homes
	<b>Needs Addressed</b>	Substandard Housing Conditions
	<b>Funding</b>	HOME: \$15,000
	<b>Description</b>	Rehabilitate or replace 3 substandard owner occupied houses.
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>22</b>	<b>Project Name</b>	Nelson Rental Development MC 12
	<b>Target Area</b>	Nelson County

	<b>Goals Supported</b>	Maintain or Add New Affordable Housing Create New Rental Units Develop Rental Units Consistent with Rural Area
	<b>Needs Addressed</b>	Rental cost-burden
	<b>Funding</b>	HOME: \$57,845
	<b>Description</b>	Develop two rental units
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	
<b>23</b>	<b>Project Name</b>	Charlottesville First Time Homebuyer HOME MC 05R
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Assist First-Time Homebuyers
	<b>Needs Addressed</b>	High costs of home purchase
	<b>Funding</b>	HOME: \$32,000
	<b>Description</b>	Assist 4 families
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	Habitat for Humanity and Piedmont Housing Alliance will complete this project.
<b>24</b>	<b>Project Name</b>	Charlottesville Rehabilitation HOME MC 14A
	<b>Target Area</b>	City of Charlottesville
	<b>Goals Supported</b>	Provide Rehabilitative Services to Homes
	<b>Needs Addressed</b>	Substandard Housing Conditions
	<b>Funding</b>	HOME: \$34,845

	<b>Description</b>	Rehabilitate 6 owner-occupied homes
	<b>Target Date</b>	
	<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
	<b>Location Description</b>	
	<b>Planned Activities</b>	AHIP and BGiA will complete the work.
<b>25</b>	<b>Project Name</b>	HOME Administration MC 21A
	<b>Target Area</b>	City of Charlottesville Albemarle County Fluvanna County Louisa County Greene County Nelson County

**Goals Supported**

- Refine Housing Policy
- Affordable Rental Assistance
- Assist First-Time Homebuyers
- Provide Emergency Repairs
- Promote Workforce Housing Near Jobs
- Encourage New Housing with Supportive Services
- Provide Rehabilitative Services to Homes
- Participate in State Housing Programs
- Support Job Improvement
- Maintain or Add New Affordable Housing
- Support Housing Programs
- Support Programs to Assist Special Needs
- Support Homeless and Transition to Independence
- Redevelop Public Housing for Integration
- Revise Codes to Improve Housing
- Encourage Increase in Financial Assistance
- Promote Local Funds for Housing
- Create New Rental Units
- Support Infrastructure Improvements
- Address Special Needs
- Operate Transitional Home
- Encourage Smaller Homes
- Develop Rental Units Consistent with Rural Area
- Collaborate to Fund Projects
- Promote Jobs and Housing for Special Needs
- Support Housing and Services for Elderly
- Support Victims of Domestic Violence
- Foster Regional Collaboration
- Raise Awareness of Rental Housing Needs
- Educate and Counsel on Fair Housing
- Provide Jobs through Section 8 Contracts
- Collect Housing and Community Development Data
- Leverage Institutional Resources
- Expand Financing Capacity
- Promote Accessory Dwelling Units

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<b>Needs Addressed</b>	<p>Risk of homelessness</p> <p>Lack of jobs that pay a sufficient wage</p> <p>Rental cost-burden</p> <p>Lack of Training Needed by Employers</p> <p>High costs of home purchase</p> <p>Transportation Access Barriers</p> <p>Housing Options for Special Needs</p> <p>Lack of Child Care Options</p> <p>Lack of Shelter for Homeless</p> <p>Regional Cooperation</p> <p>Current Homeowner Cost-Burden</p> <p>Neighborhood Segregation</p> <p>Increase in Doubling-Up</p> <p>Untapped Institutional Potential</p> <p>Substandard Housing Conditions</p> <p>Lack of Safe Public Places</p> <p>Energy Inefficiency</p> <p>Ex-Offender Reentry</p> <p>Discrimination in the Housing Market</p> <p>Regulatory Barriers</p> <p>Programs Consistent with the Consolidated Plan</p>
<b>Funding</b>	HOME: \$53,477
<b>Description</b>	Planning and administration of HOME program
<b>Target Date</b>	
<b>Estimate the number and type of families that will benefit from the proposed activities</b>	
<b>Location Description</b>	
<b>Planned Activities</b>	

## **AP-50 Geographic Distribution - 91.420, 91.220(f)**

**Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed**

The HOME funds will be distributed evenly between the six jurisdictions that make up the HOME Consortium. There are no geographic targets within localities set for HOME funds in the Consolidated Plan.

### **Geographic Distribution**

<b>Target Area</b>	<b>Percentage of Funds</b>
City of Charlottesville	49
Albemarle County	16
Fluvanna County	8
Louisa County	8
Greene County	8
Nelson County	11
Town of Columbia	0

**Table 5 - Geographic Distribution**

### **Rationale for the priorities for allocating investments geographically**

The HOME funds distribution arrangement is stipulated in the original agreement between jurisdictions in the Consortium, and it has been practiced since 1993. CDBG funds are granted entirely to the City of Charlottesville as an entitlement community. Albemarle County's percentage is larger than the other localities for this fiscal year because it includes a CHDO project, which revolves around the region on an annual basis. Other differences in the proportions may be attributed to variations in program income received by localities, which stay within the locality that earns the income and is used toward future HOME or CDBG projects.

### **Discussion**

## Affordable Housing

### AP-55 Affordable Housing - 91.420, 91.220(g)

#### Introduction

One Year Goals for the Number of Households to be Supported	
Homeless	
Non-Homeless	
Special-Needs	
Total	

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rehab of Existing Units	0
Total	0

Table 7 - One Year Goals for Affordable Housing by Support Type

#### Discussion



## **AP-60 Public Housing - 91.420, 91.220(h)**

### **Introduction**

Public housing is owned and operated by the Charlottesville Redevelopment and Housing Authority (CRHA) and all units are contained within the City limits of Charlottesville. This section outlines plans to provide this resource and improve the current stock of housing.

### **Actions planned during the next year to address the needs to public housing**

The Charlottesville Redevelopment and Housing Authority (CRHA) continues to provide quality housing and support to the City's lowest income population.

CRHA attempts to work in the community to create awareness of the problems faced by low-income families. Given dwindling public resources, CRHA has been forced to concentrate on being a landlord with limited social supports.

The HUD Family Self-Sufficiency (FSS) Program uses a case management approach to mobilize and coordinate a comprehensive array of existing services to meet the particular needs of each individual family. The program provides an opportunity for families to become economically independent and reduce their dependency on public assistance. In 2012, CHRA received \$49,780 of FSS funding for its Housing Choice Voucher program participants, but none for its public housing program. No funds were awarded in 2013.

CRHA relies heavily on numerous community partners to provide on-site opportunities for youth and adults in public housing. The agency's overall goal with such programs is to facilitate and encourage residents' efforts towards success and independence. Youth programs include sports, after-school programs, safety and educational programs and activities. Adult programs include health and wellness programs, GED and other educational opportunities, job training programs, homeownership counseling, and safety and security practices.

CRHA continues to administer the Downpayment and Closing Cost Assistance program and the Housing Opportunities Partnership program (HOP). The City has worked closely with CRHA to help address the needs of public housing residents by providing funding for these programs. The City has also provided funding to support the Public Housing Association of Residents (PHAR) to match funding provided through a foundation grant. Funding is used for community organizing, resident leadership development and capacity building, resident advocacy, organizational administration, and public/community relations. CRHA maintains a website with information about housing authority news of interest, community-wide news, and upcoming job and training opportunities.

CRHA has asked the City of Charlottesville for assistance with basic operations and redevelopment. The City Manager has proposed various options to either work with the Housing Authority and/or take over

CRHA as a City department, but a decision has not yet been made. The City is also working to reactivate the Charlottesville Development Corporation (CDC) by working with CRHA to identify a board that will be able to step in and move redevelopment forward. The goal of redevelopment is to transform each of the public housing sites into vital mixed-income, mixed-use communities to the greatest extent possible while maintaining a respectful relationship with the surrounding neighborhoods.

The Housing Authority is also in partnership with the City of Charlottesville to implement an aggressive anti-poverty strategy using the HUD Section 3 program. Section 3 provides opportunities for low-income individuals to gain access to jobs and the necessary skills and training needed to help secure employment.

### **Actions to encourage public housing residents to become more involved in management and participate in homeownership**

The Charlottesville Redevelopment and Housing Authority (CRHA) conducts activities to increase resident involvement. The Housing Authority continues to administer the Downpayment and Closing Cost Assistance program as well as the Housing Opportunities Partnership program (HOP). The City has worked closely with the Housing Authority to help address the needs of public housing residents by providing funding for these programs.

The City has also worked with Habitat for Humanity of Greater Charlottesville and Southern Development (a local developer) to sell a City owned parcel of land that will allow for 20 affordable “for purchase” units out of 46 total units, with 25% of the affordable units targeted toward public housing residents.

### **If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance**

## **Discussion**

## **AP-65 Homeless and Other Special Needs Activities - 91.420, 91.220(i)**

### **Introduction**

The annual Homeless Strategy is derived from the revised Community Plan to End Homelessness. While minor revisions were made to the plan in 2012, the Thomas Jefferson Area Coalition for the Homelessness plans to substantially revise the plan in 2014. A Community Planning Design Committee has convened to consider ways to gather broad community input in the development of the revised plan. It is clear that TJACH intends the revised plan to include specific and measurable goals against which the coalition, community and individual service providers can hold themselves accountable.

### **Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including**

#### **Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs**

The Haven operates a low-barrier day shelter open seven days a week as a resource and respite center for people experiencing homelessness. Coordinated assessment is provided every day at The Haven to assess housing barriers and needs, make appropriate referrals, and connect people to prevention, rapid re-housing and permanent supportive housing resources. A PATH Street Outreach program is well-established in this community provided a full-time street outreach worker based at Region Ten. This position is responsible for conducting outreach on the streets, at soup kitchens, and at campsites where people experiencing homelessness congregate in order to assess and provide resources for people with untreated mental health issues. This position participates in the bi-weekly Community Case Review to accept referrals from partner agencies and conducts weekly outreach at the local low-barrier, day shelter, The Haven. In addition, The Haven supports an outreach worker that specializes on substance abuse assessment and referral, conducting outreach at the day shelter and in public places. A primary goal for the following year is improving this community's crisis response system using validated assessment and triage tools to ensure that resources are targeted to the neediest in our community.

#### **Addressing the emergency shelter and transitional housing needs of homeless persons**

As documented in the Needs Assessment and Market Analysis, emergency shelters are currently adequately providing for the needs of homeless individuals. However, the number of homeless families is increasing, and the plan calls for increased resources to meet these changing needs. Specifically, these needs could be met by converting existing transitional housing beds to dedicated emergency shelter beds for families. Transitional housing needs will be met predominantly through rapid rehousing programs. The CoC receives funding from the state's Emergency Solutions Grant and Housing Solutions Grant to establish an effective rapid re-housing program, based at Equity. Support for a Housing Navigator position has been requested from the City of Charlottesville and Albemarle County human services funding process. Two transitional programs are currently in operation, one by the Monticello

Area Community Action Agency (MACAA) and the other by the Salvation Army. They are both seeking private funds for ongoing operations. A primary goal for the following year is to re-tool the crisis response system to dramatically reduce the amount of time individuals and families experience homelessness and stay in shelters.

**Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again**

Integrating housing opportunities with ongoing case management support has been identified as a priority for this CoC. Funding support for housing-focused supportive services has been requested from local funders in order to improve this community's capacity to provide housing stabilization services. With the support a Community Case Review process, we will work to build a pathway from shelters or street to stable housing and build an inventory of participating landlords. A primary goal for the following year is to assess local data to determine a more strategic way to use public resources, integrate a rapid re-housing triage methodology and reduce shelter stays.

**Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.**

Prevention strategies include interventions immediately prior to homelessness occurring, adequate case management during the transition out of homelessness to prevent relapse, and support during a discharge from institutional housing. The State's Emergency Solutions Grant has provided funds for homelessness prevention. The Jefferson Area OAR have recently been trained to assist their clients with securing SSI/SSDI support rapidly to have sufficient income to prevent recidivism, and this form of counseling will be practiced over the following year. City of Charlottesville and Albemarle County Departments of Social Services leadership serve on CoC governance and actively work to improve access to mainstream resources for people experiencing housing crisis. The two Departments of Social Services (Albemarle and City of Charlottesville) have recently been awarded a pilot project to use TANF funds to prevent and respond to homelessness. A primary goal for the following year is to identify best practice targeting strategies to ensure that prevention funds are being used for those most likely to become homeless. Technical assistance is being provided by Virginia DHCD to implement changes.

## **Discussion**



<b>One year goals for the number of households to be provided housing through the use of HOPWA for:</b>
Short-term rent, mortgage, and utility assistance to prevent homelessness of the individual or family
Tenant-based rental assistance
Units provided in housing facilities (transitional or permanent) that are being developed, leased, or operated
Units provided in transitional short-term housing facilities developed, leased, or operated with HOPWA funds
Total

## **AP-75 Barriers to affordable housing - 91.420, 91.220(j)**

### **Introduction**

This section describes actions planned to remove or ameliorate barriers to affordable housing in the one year period. The one-year actions described in this section are intended to fit within the 5-year strategy to remove or ameliorate barriers to affordable housing.

### **Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment**

There are three actions planned to be completed in the one-year time frame to remove or ameliorate public policies that negatively affect affordable housing: final adoption of revisions to the Albemarle County Housing Policy, continued efforts to promote policies favorable to homesharing, accessory dwelling units as alternatives for affordable rental housing, and working with the Virginia Housing Development Authority (VHDA) to revise policies related to financing for Community Land Trust projects.

Albemarle County's revised Affordable Housing Policy was included in the County's Draft Comprehensive Plan, which is still under review by the County. The updated policy highlights the dispersal of affordable units throughout a development and adherence to the counties design standards for development areas. Adoption of the plan is anticipated during Program Year 2014.

The second action consists of continued work with all localities in the region, to address barriers to homesharing and Accessory Dwelling Units (ADUs) as alternative approaches to providing affordable rental opportunities. This will build on the "Idea Book" showcasing successful or promising approaches to homesharing and ADUs, through work with Planning Commissions across the region.

An additional action is work through the Thomas Jefferson Community Land Trust (TJCLT) to work with the Virginia Housing Development Authority (VHDA) to revise their policies regarding financing of Community Land Trust (CLT) projects. The CLT model homeownership more affordable to the initial buyer, and also ensures that the home will remain affordable for future buyers. TJCLT homebuyers benefit from a reduced price on the home, with the CLT owning the land, in exchange for a lower share of the appreciation in the home's value at resale. Accessing permanent mortgage financing has been a barrier to expanding this model. Current VHDA policies do not allow mortgages for CLT properties. A change in policy would allow more CLT projects to move forward.

### **Discussion**

## **AP-85 Other Actions - 91.420, 91.220(k)**

### **Introduction**

#### **Actions planned to address obstacles to meeting underserved needs**

The Housing Choice Voucher Program (formerly Section 8) provides one of the few subsidized housing opportunities in the more rural counties in the Planning District and the number of Housing Choice Vouchers (HCVs) is not sufficient to meet the need. The relative lack of HCVs is compounded by the lack of available rental units. The Consolidated Plan Needs Assessment reported a deficit in the number of rental units available to low and very low income households in the region, as well as a number of renting households spending in excess of 50% of their income on housing. Consultations with social services providers and the aggregated results of the online survey conducted for the Consolidated Plan underscore the finding that a lack of affordable rental housing for very low-income families is needed. This is exactly the target clientele for the HCV, but the number of vouchers available falls far short of the need.

The City and the Consortium will work with the funds received to address the needs of as many individuals as possible. The annual goals to address these underserved needs are contained in this Action Plan.

#### **Actions planned to foster and maintain affordable housing**

The provision and retention of affordable housing is a central theme of the Consolidated Plan and this Action Plan. The City of Charlottesville and the HOME Consortium will approach the issue of affordable housing from a variety of pathways, including creation of new affordable units, rehabilitation of substandard homes, providing assistance to renters, and addressing policies that create barriers to affordable housing.

#### **Actions planned to reduce lead-based paint hazards**

Rehabilitation of existing substandard housing units is a key component of preserving existing affordable housing. Due to the age of the housing stock, particularly in the rural areas where renovations are less likely to have occurred in recent decades, there is a greater likelihood of the existence of lead-based hazards. Special precautions will be taken in homes where young children are present, whether or not the existing structure was built before 1978. Appropriate controls and abatement measures will be utilized in homes built before 1978.

#### **Actions planned to reduce the number of poverty-level families**

Many affordable housing and community development activities have the objective of making life easier



for poverty-level families, by increasing the quality of their housing and/or neighborhood or reducing the impact of housing on the family budget. An implicit goal of every activity in this plan is to provide a ladder for families to move themselves out of poverty and into financial independence. Of course, this can only happen through a robust job market, with opportunities available to the range of skill sets and educational backgrounds that exist in the region, as well as training programs and mechanisms for linking prospective poverty-level employees with employers. Although the job market is relatively healthy and unemployment is low compared to Virginia and the nation, a significant segment of the population is on the sidelines of the labor force.

Activities utilizing HOME funds will not directly address job provision and training, but locating new housing in high-opportunity areas with ample access to jobs facilitates employment among clients served. Other goals call for the inclusion of support services, including job training, into housing for the homeless. CDBG projects address new business development and workforce development directly.

### **Actions planned to develop institutional structure**

The Housing Directors meet regularly to coordinate the housing programs in the region. The TJACH Governance Board and its Service Providers Council meet monthly to address the needs of the homeless and special needs populations. These groups coordinate with local government and work together to provide the best housing strategies for the region's low and moderate in-come residents.

The Thomas Jefferson Planning District Commission (TJPDC), the City of Charlottesville, and Albemarle County recently completed a three-year Sustainable Communities Regional Planning Grant administered through HUD's Office of Sustainable Housing and Communities. The primary deliverable of this process, known as Many Plans/One Community, was a regional sustainability implementation plan, consisting of the Comprehensive Plans for the City of Charlottesville and Albemarle County, as well as the MPO's Long Range Transportation Plan. Throughout this process, an unprecedented level of planning coordination has taken place and is expected to continue into the future. The City of Charlottesville adopted its Comprehensive Plan in August 2013. The Albemarle County Board of Supervisors is continuing to review their updated Comprehensive Plan. The Long Range Transportation Plan is scheduled for adoption in May 2014.

Housing, in particular, received significant attention from the Planning Commissions and elected bodies than it has in previous Comprehensive Plans, as a result of this process. In addition to a section on housing in each of the Comprehensive Plans, a Fair Housing and Equity Assessment was developed to supplement the existing Analysis of Impediments to Fair Housing Choice. This assessment engaged decision-makers and the general public with the ongoing disparities that exist within the region. It is the intent of the City of Charlottesville and the HOME Consortium to utilize this growing institutional capacity and leverage it toward meeting the goals of this plan.

### **Actions planned to enhance coordination between public and private housing and social**

## **service agencies**

The Housing First approach and Community Case Review process utilized by the Thomas Jefferson Coalition for the Homeless (TJACH) brings housing and social service agencies together to address housing needs and support services. This process is working well and will continue to be refined and strengthened to build relationships and enhance coordination between housing and services.

The Thomas Jefferson Planning District Commission, through its non-profit arm TJPDC Corporation, is serving as the lead partner in an update of the 2020 Plan: Aging in Community. The Steering Committee of the Livable for a Lifetime Initiative will serve as the Steering Committee for the plan update. This update process will bring agencies and organizations involved in public and private housing together with social service agencies. The update will refine goals and objectives set forth in the 2020 Plan published in 2003 and establish an Action Plan with specific activities, lead partners, timelines and measurable outcomes. The planned completion date is May 2015.

TJPDC also provides staff support for the Disability Services Board (DSB) and the Transition Council. The purpose of the DSB is to promote the full inclusion of people with disabilities in the community. The Transition Council is a partnership of students, families, agencies, schools, and other community partners who coordinate and improve the delivery of services for youth with disabilities, ages 14 through 22, as they transition from high school to adult life.

## **Discussion**

## Program Specific Requirements

### AP-90 Program Specific Requirements - 91.420, 91.220(I)(1,2,4)

#### Introduction

#### Community Development Block Grant Program (CDBG)

##### Reference 24 CFR 91.220(I)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	3,592
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
<b>Total Program Income:</b>	<b>3,592</b>

#### Other CDBG Requirements

1. The amount of urgent need activities	0
2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%

**HOME Investment Partnership Program (HOME)**  
**Reference 24 CFR 91.220(l)(2)**

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

The Thomas Jefferson HOME Consortium does not intend to use forms of investment other than those described in 24 CFR 92.205(b).

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

In addition to assisting the initial LMI homebuyer using HOME funds for down payment and closing cost assistance, the Consortium intends to assist future income-eligible homebuyers through the use of resale provisions and/or recapture of HOME funds. The Consortium has not chosen to adopt HUD's resale provision for use by all subrecipients but rather has adopted the following options for use by the subrecipients as deemed appropriate for their local programs.

Restricted Resale is not used by the Consortium. All sub-recipients have elected to use the recapture provisions.

First Right-of-Refusal would give the subrecipient the right to purchase a unit for sale by the initial owner during a specified period of time not less than the applicable term of affordability. The first right-of-refusal would be a part of the deed of trust securing the HOME funds. If the right is exercised, the subrecipient must resell the property to an eligible LMI homebuyer and may provide the subsequent purchaser to assume all or a portion of the initial HOME funds to make the resale affordable.

Recapture of initial HOME investment secured by note and deed of trust for a term not less than the applicable period of affordability. Recapture may be structured for principal only, principal plus interest, or principal plus shared equity. Terms would be specified in the note and deed of trust. All recaptured HOME funds along with interest and/or equity share would be treated as program income and utilized accordingly. The amount of recapture is limited to the net proceeds available from the sale of the home. Inheritance to a family member not on the title will invoke recapture provisions. If the heir is income-qualified, the recaptured funds may be used for a new loan to the heir as the purchaser as a new HOME project.

The Consortium will execute agreements with each subrecipient that will include which option the subrecipient will use to meet the Consortium objective of assisting the initial homebuyer and future homebuyers. Each subrecipient will report all recapture including program income as prescribed by the Consortium.

3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

The guidelines for recapture detailed above ensure the affordability of units acquired through HOME funds.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that will be used under 24 CFR 92.206(b), are as follows:

The TJ HOME Consortium does not intend to use HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds.

## **Discussion**

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# CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA



Agenda Date:	May 5, 2014
Action Required:	Presentation of Report
Presenter:	Kathy McHugh, Housing Development Specialist
Staff Contacts:	James E. Tolbert, AICP, Director of NDS Kathy McHugh, Housing Development Specialist
Title:	<b>Housing Report - 2014</b>

**Background:** The charge given to the Housing Advisory Committee (HAC) requires that this group prepare a report on affordable housing efforts.

**Discussion:** The attached report and PowerPoint presentation have been prepared to provide: 1) an overview of existing housing programs, 2) an update on the status of the 2025 Goals for Affordable Housing Report, 3) an analysis of the 2025 goal as well as challenges to meeting the goal, 4) overview of affordable housing investments and efforts, and 5) opportunities for future efforts.

**Community Engagement:** This report is a required element of the Housing Advisory Committee (HAC) charge. While the HAC has not actively participated in the writing/development of the report, the report is reflective of the activities and policy discussions of the group.

**Alignment with City Council's Vision and Priority Areas:**

Approval of this agenda items aligns directly with Council's vision for Charlottesville to provide quality housing opportunities for all.

**Budgetary Impact:** None, this is a status report only.

**Recommendation:** Not applicable

**Alternatives:** Not applicable

**Attachments:** 2014 Housing Report

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**Charlottesville Housing Report  
For Presentation to City Council  
at May 5, 2014 Meeting**

**Introduction/Overview**

The attached report and PowerPoint presentation are required by the charge to the City's Housing Advisory Committee. These documents have been prepared to provide: 1) an overview of existing housing programs, 2) an update on the status of the 2025 Goals for Affordable Housing Report, 3) an analysis of the 2025 goal as well as challenges to meeting the goal, 4) overview of affordable housing investments and efforts, and 5) opportunities for future efforts.

Information contained herein is provided as a basis for evaluating current affordable housing efforts and to inform policy and funding decisions for the future.

**Overview of Existing Housing Programs**

The City of Charlottesville has a variety of existing programs that are geared toward encouraging investment in affordable housing efforts as well as providing direct assistance to homeowners in the form of tax relief/deferral and rent relief for the elderly/permanently disabled.

City sponsored programs include the Capital Improvement Program (CIP) funded **Charlottesville Affordable Housing Fund (CAHF)**, as well as Federal programs, such as the **Community Development Block Grant (CDBG)** and **HOME** programs. These funding sources provide direct financial assistance for affordable housing efforts through non-profit partners, with an emphasis on construction, housing rehabilitation and retention of supported affordable housing units. CDBG funds can be used for housing, but are also used by the City for social programs for low to moderate-income persons as well as limited economic development efforts and targeted neighborhood infrastructure improvements.

In addition, the City also provides assistance directly to homeowners. Specifically, the Charlottesville Housing Affordability Program (**CHAP**) provides for an annual property tax grant (of either \$375 or \$525 during the second half) to qualified owners whose income level and assessed property value do not exceed specified levels. The elderly/permanently disabled cannot utilize CHAP; however, they are eligible to apply separately under **Real Estate Tax Relief for the Elderly or Permanently Disabled** (§30-96). This program examines income, age/disability, and net worth and the amount of relief is dependent upon combined income and net worth (tax relief varying from 8% - 100%).

Tax exemptions are also provided to those that make improvements to their homes. The **Tax Exemptions for Housing Improvements** (§30-155 - §30-160) program provides up to seven years of tax relief on the value of improvements, if such are made to a property 25 years or older with an existing value of less than \$507,100. Improvements must increase the value of the home by at least 15%. Homeowners can also qualify for a one year **Special Tax Rate for Certain Energy-Efficient Buildings** (§30-160.1 – §30-160.11) when they make improvements that exceed the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by 30% or any building that (i) meets or exceeds performance standards of the Green Globes Green Building Rating System of the Green Building Initiative, (ii) meets or exceeds performance standards of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System of the U.S. Green Building Council, (iii) meets or exceeds performance standards or guidelines under the Earth

Craft House Program, or (iv) is an Energy Star qualified home, the energy efficiency of which meets or exceeds performance guidelines for energy efficiency under the Energy Star program developed by the United States Environmental Protection Agency. Related to this, City Code also provides a **Solar Energy Tax Exemption** (§30-126 – §30-138) for qualified solar equipment, facilities and devices.

The **Rent Relief Program for the Elderly or Permanently Disabled** (§25-56) provides grant funding for rental assistance to qualified tenants, based on income, age/disability, and net worth.

**Reduced Water and Sewer Connection Fees** (§31-102; §31-106.1) lower the cost of these utility connections when the house is being built either to sale or rent as affordable to families at 80% Area Median Income (AMI) or less.

The **Assisted Home Performance with Energy Star** program is offered to City residents through the Local Energy Alliance Program (LEAP). This initiative provides home energy audits and energy retrofits for qualified homeowners.

**Expedited Permitting** for affordable housing is provided through §34-12(f) upon approval of a rezoning or special use permit. In these cases, site plans submitted for review shall be acted upon by the director of Neighborhood Development Services or Planning Commission within twenty-one (21) days after the date such plan was officially submitted. Also, as provided at §34-823(a), in the case of a preliminary site plan application which guarantees that at least fifteen (15) percent of all proposed residential units therein will qualify as affordable housing (defined as units committed for a thirty-year term as affordable to households with incomes at eighty (80) percent or less of the area median income), the timeframe shall be reduced to twenty-one (21) days.

Lastly, the City provides paint, primer, and caulk through its **Free Paint Program** to income qualified homeowners who can least afford to purchase such items to maintain the exterior of their homes. Since the homeowner must provide labor to do the work, various non-profits have been involved with assisting some homeowners; however, there is no formal structure in place to link owners with volunteer painting services.

The above programs can be used in concert as long as eligibility requirements are met for each. Most all these programs have income and/or age/disabled status limitations that correlate to the **Area Median Income (AMI)** figures for the current year, as published by the United States Department of Housing and Urban Development (HUD). The most recent figures (as of 12/18/13) are as follows:

<b>% of AMI</b>	<b>1 person</b>	<b>2 person</b>	<b>3 person</b>	<b>4 person</b>	<b>5 person</b>	<b>6 person</b>	<b>7 person</b>	<b>8 person</b>
30%	\$17,100	\$19,550	\$22,000	\$24,400	\$26,400	\$28,350	\$30,300	\$32,250
50%	\$28,500	\$32,550	\$36,600	\$40,650	\$43,960	\$47,200	\$50,450	\$53,700
60%	\$34,200	\$39,060	\$43,920	\$48,780	\$52,740	\$56,640	\$60,540	\$64,440
80%	\$44,750	\$51,150	\$57,550	\$63,900	\$69,050	\$74,150	\$79,250	\$84,350

These figures are based on the estimated Median Family Income for Charlottesville which is \$82,600.

**Update on the Status of the 2025 Goals for Affordable Housing Report**

The overarching housing goal for the City, as adopted by City Council on February 1, 2010 (per the City of Charlottesville 2025 Goals for Affordable Housing Report recommendation), is to:

***Increase the ratio of supported affordable units to 15% of total housing units by 2025.***

Supported Affordable Housing is defined as housing units with various sources of public funding and mechanisms ensuring their affordability including, but not limited to: HUD, VHDA, the City of Charlottesville, project based Housing Choice Vouchers (a.k.a. Section 8), and/or deed restrictions. Support may be a) project-based for multiple units (*i.e.*, Friendship Court), b) attached to individual locations (deed restrictions and land trusts), or c) reside with individual households (tenant based Housing Choice Vouchers or down payment assistance).

The 2025 report initially reported 10.5% supported affordable housing at the time of preparation; however, the reporting methodology was based on point-in-time guesstimates rather than firm numbers. Since the adoption of the original report, the City has attempted to refine these numbers through its P3 effort and by creating an affordable housing database. The following provides a list of previous reports for the 2025 goal, along with an explanation of how the information was obtained / calculated. Note that comparison of these numbers is not advisable due to the variations in methodology used.

Current housing goal information is based on use of the City’s Master Address Table (MAT) and Supported Affordable Housing Database. Moving forward, we hope to continue to use both of these resources as the basis for tracking housing units. While the MAT needs some refinement (see note #4 below), staff believes that this information will only become more reliable over time and that this will provide a better measure of housing units than tax assessor data which: 1) does not reflect the number of units in a mixed use building, 2) assumes the maximum number of units for the use code, 3) does not account for multiple buildings on one parcel, and 4) requires apartments and mobile homes to be tracked separately. As all of these variables must be tracked independently, there is a much greater chance of introducing error than by using the MAT.

<b>Year</b>	<b># of Affordable Units</b>	<b>Total Number of Units</b>	<b>% Affordable</b>
February 2010 (2025 Goals for Affordable Housing Report) <sup>1</sup>	1,933 (includes 499 vouchers)	18,407	10.5%
March 2012 (Housing Report to City Council) <sup>2</sup>	1,985 (includes 382 vouchers)	19,189	10.3%
Sept 2012 (HAC Fall Newsletter) <sup>3</sup>	2,050 (includes 386 vouchers)	19,794	10.3%
April 2014 (Housing Report to City Council) <sup>4</sup>	2,021 (includes 413 vouchers)	19,626	10.29%

<sup>1</sup> Affordable units were based on point in time *guesstimate* of number of units by various non-profits as well as current information on housing vouchers, discounting this number by 30% to avoid duplication of counting units more than once. Total number of units was based off of 2007 American Community Survey Data.

<sup>2</sup> Affordable units were based on adding new supported affordable units to the number of units used in the 2025 report. Updated information on housing vouchers was also incorporated. Total number of units was based off of 2010 Census numbers.

<sup>3</sup> Affordable units were identified in a City developed database for the first time. Every effort was made to include all sources of information including local housing non-profits and a loan database maintained by the City Attorney's office that includes units assisted through City funded rehab and down payment assistance. Information from various HUD funded programs as well as the Low Income Housing Tax Credit programs were also utilized. Total units were locally calculated based on 15,115 single family homes listed in the tax assessor's database, combined with 121 mobile homes and 4,558 apartment units (representing 282 apartment complexes). Voucher information was updated, again discounting this number by 30% to avoid duplication.

<sup>4</sup> Most recent numbers are perhaps the most accurate to date. Affordable units are based off of the City's updated database, with every effort taken to eliminate duplications, firm up numbers, and remove units that have expired for the purposes of the designated period of affordability. Voucher information was updated again, but this time City staff made an effort to account for duplicated units and found that the actual percentage was 40% (270/683 vouchers) instead of 30% as previously assumed. Total number of units has been identified using the Master Address Table (MAT). It should be noted that the MAT also includes 1,091 addresses that are not classified as residential, commercial or institution, corresponding to 342 building which are mostly concentrated in Downtown/North Downtown, The Corner, and two clusters in Belmont. All are either mixed use buildings or have ambiguous commercial use designations from which City staff cannot clearly infer the use type of the address. Accordingly, it should be noted that the number of housing units is likely a conservative number given that several of the unclassified buildings are known to be mixed use. Staff is aware of the issue and working to reduce the number of unknowns in the MAT to provide a more accurate count.

## **Analysis of the 2025 goal as well as Challenges to Meeting the Goal**

In looking at these numbers, it should be noted that the City has not experienced any major reductions in affordable units since the 2025 report was completed. Specifically, affordable units including Charlottesville Redevelopment and Housing Authority (CRHA) properties, Friendship Court, Hearthwood and Greenstone on 5<sup>th</sup> (formerly Blue Ridge Commons) have all been maintained (as affordable) during this time period. At the same time, the City has added units at the Crossings at Fourth & Preston (Virginia Supportive Housing), Timberlake (JABA), Sunrise (Habitat for Humanity of Greater Charlottesville – Habitat), as well as increased supported affordable units through scattered site housing rehab and the Block by Block program ongoing in the Tenth and Page Neighborhood (AHIP). Projects including affordable housing that are either under development or slated to start soon include a total of 43 new affordable units. These projects include Belmont Cottages (Habitat mixed income development with 8 affordable units out of 15), Burnett Commons Phase 2 – the Woods (Southern Development mixed income development with 7 affordable units out of 48), Burnett Commons Phase 3 at Elliott Avenue and Oakwood Cemetery (Habitat and Southern Development mixed income development with 20 affordable units out of 46), and The Laurels at 991 5<sup>th</sup> Street S.W. (Habitat, Charlottesville Abundant Life Ministries and Piedmont Housing Alliance mixed income development with 8 affordable units out of 12).

As for the larger affordable properties that have continued to maintain their affordable units, only one of these properties has undergone any major work over the past few years. Specifically, Greenstone on 5<sup>th</sup> (formerly Blue Ridge Commons) recently upgraded all units and constructed a new community center which houses a leasing/management office and approximately 200 s.f. of resident services space for community programs. In addition to physical improvements,

Community Housing Partners is also working with the City to fund enhanced police coverage for this development to address safety and quality of life concerns identified by residents. In combination, these efforts have greatly improved this affordable housing property.

Our affordable housing goal is complicated by a number of factors including (but not limited to) the following:

- The original goals did not take the **lack of and expense of land** into consideration. The lack of availability of land (limited real estate) and the cost of existing land (high prices) are the most common obstacles denoted by the Housing Advisory Committee (HAC).
- The initial report assumed a very high percentage of leverage (91.6% other funds to 8.4% City funds). While these figures are possible with large scale low income housing tax credit projects and even smaller scale down payment assistance projects, these figures are not possible with housing rehabilitation, which leverages much less. Accordingly, the **assumed leverage is thought to be artificially high** and this presumption negatively impacts the long range assumptions of the 2025 report and brings into question the proposed outcomes over the 15 year period.
- The newly adopted Comprehensive Plan supports incorporating affordable units throughout the City, and achieving a mixture of incomes and uses in as many areas of the City as possible. Although the City will continue to work toward its goal of 15% supported affordable housing by 2025, **integration of units throughout will be challenging**. Both of the low income housing tax credit projects proposed for 2014 were in areas that would have concentrated more low income persons/households in areas that already have high poverty rates. It is unclear as to what role land availability played (although both sites are available for market rate purchase and development); however, it should be noted that Virginia Housing and Development Agency (VHDA) provides a 30% boost in basis to applicants that choose to locate in Qualified Census Tracts (QCTs). This is an Internal Revenue Service rule (as the IRS regulates this program) and not one that is controlled by VHDA; however, it certainly impacts decisions about where to locate such projects. As these tracts are already economically distressed (by definition)<sup>1</sup>, the location of additional affordable units would only further concentrate poverty in these area and create additional challenges to integrating units throughout the City
- By emphasizing a numerical goal, it is **difficult not to further concentrate affordable units**, as larger projects provide the best opportunity to make significant gains toward achieving the goal. In fact, it will be logistically challenging, if not impossible (due to cost and other factors) to achieve 15% supported affordable units without including some larger scale projects. Given limited land (as noted above) and the location of available vacant parcels, the challenges in our City of only 10.4 square miles only intensify - as adaptive

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<sup>1</sup> A Qualified Census Tract (QCT) is a tract with a poverty rate of at least 25% or 50% or more of its households have incomes below 60% of area median income

reuse, infill and redevelopment projects are generally more expensive and don't always provide the advantages of centralized maintenance and other economies of scale.

- The number of new supported affordable units (including new units, rehabbed units, down payment assistance, etc...) needs to be equal or greater than 15% of all new construction just to keep pace. Given the **recent student housing construction boon**, it will be difficult to catch up once these estimated 670 units come on line.
  
- **Focusing on development of supported affordable housing units rather than assisting people is delicate business** and should be evaluated in light of Strategic Action Team Report, the Orange Dot Project, and other efforts that have examined poverty and self-sufficiency issues. Housing needs can vary widely, as can ability to pay. Increasing physical stock and/or securing support through a financial mechanism is part of the solution, but not all of it. The City cannot reasonably be expected to totally build our way out of our affordable housing problem and we must look at the situation more holistically. The Housing Advisory Committee has discussed revisiting the 2025 Goals for Affordable Housing at some point in light of this concern, as it has come up recently in discussion regarding revision of Housing Policy #1. Current plans are to focus on housing policy revisions and delay making a recommendation regarding the 2025 report until this effort is completed.
  
- When considering affordable housing needs, Charlottesville **must take university students (especially those attending the University of Virginia) into consideration**, as this group is currently included when examining those who pay a disproportionate amount of their income for housing. In an effort to quantify the impact of students, the City needs to be able to separate students living in City residential properties from the rest of the population. The University of Virginia (UVA) Institutional Assessments and Studies data reveals that only 29.7% (6,268 out of 21,206) of all students actually live in University housing, meaning that the majority live off grounds. To further refine this number, the City also needs to know what percentage of the off grounds students actually live within the City limits. Based on a July 2011 utility study for the Rivanna Water and Sewer Authority, the number of UVA students living off grounds was 14,400 out of 21,000 or 68.6% (which is fairly consistent with the information referenced above that reflects 70.3% living off grounds).<sup>2</sup> This information is further broken down by the City of Charlottesville and other areas in the County, reporting a total of 9,300 students living off grounds within the City of Charlottesville, or 44.3% of the total (9,300 persons / 2.5 persons per household = 3,720 housing units occupied by UVA students ).<sup>3</sup> Further, that while these individuals are likely paying higher percentages of their income for housing, they also have access to other resources via their families (i.e., parents, grandparents, etc.). Removing this number could significantly change the overall picture of housing affordability in Charlottesville and provide a more accurate assessment of problems for our low wealth community.

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<sup>2</sup> "Rivanna Water and Sewer Authority Water Demand Analysis," AECOM, July 5, 2011

<sup>3</sup> This number is a conservative estimate based on the fact that university apartments range from 1 to 4 persons per unit.

- **Removing UVA students from the discussion on affordable housing and poverty greatly reduces the magnitude of the problem.** According to the American Community Survey (ACS) 5 year estimates for 2007-11, Charlottesville had 17,387 occupied housing units.<sup>4</sup> Slightly more than a third (36%) of the households residing in these units were spending more than 35% of their income towards housing costs, and 28.9% of these households had incomes below \$35,000 (45.2% median family income for a family of four). Furthermore, 7,406, or close to half (45.4%) of all households in the City, spent more than 30% of their income on housing costs (5,277 renters and 2,129 owner occupied households).<sup>5</sup> When students (as noted above) are taken into consideration, only 2,125 (13.2%) of the population are spending more than 35% of their income toward housing costs and 3,686 (22.6%) are paying more than 30% of their income toward housing costs. This number is not meant to belittle the issues faced by families paying more than 30% of their income for housing, or to suggest that having 22.6% of the population being overburdened with housing costs is acceptable, but this does provide a more accurate assessment of the degree of the problem. ACS also examined changes in poverty rates after excluding off-campus college students (2009 -2011) and found that in Charlottesville, the change in poverty rate (when excluding college students not living with relatives) was 14.2% (decreased from 27.7% to 13.5%).<sup>6</sup> Understanding the complexities of student demographics is important to the extent that it focuses affordable housing policy on the segment of our population that is least likely to overcome poverty and cost burdened housing costs without assistance.

## **Overview of Affordable Housing Investments & Efforts**

The following chart provides an overview of housing investments made to date through the Capital Improvement Program (CIP) funded efforts. These are broken down by year and include the number of assisted/affordable units associated with each effort (if known).

It should also be noted that the Housing Advisory Committee is currently discussing revisions to Housing Policy #1 (adopted November 3, 2008), which is the policy that deals with appropriate usage of the Charlottesville Affordable Housing Fund (CAHF). Over five years have passed since the policy was first adopted and the national and local housing markets have undergone significant changes during this time. Accordingly, the HAC has identified update of this policy as essential to ensuring that City housing policies are current and relevant to help inform CAHF funding decisions. Discussions during the March HAC meeting regarding this policy demonstrated that the HAC is also concerned over the singular focus on housing units (rather than people) in the 2025 Goals for Affordable Housing report.

As the HAC continues its discussion regarding Housing Policy #1, the potential change/focus on people rather than physical housing units might also mean that the group should consider potential uses of funds that are not tied directly to unit development. If CAHF policy continues to focus on

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<sup>4</sup> The total number of housing units was 19,088, which includes 1,701 vacant units.

<sup>5</sup> One component of the generally accepted definition of affordability is for a household to pay no more than 30 percent of its annual income on housing. (<http://www.hud.gov/offices/cpd/affordablehousing>).

<sup>6</sup> Examining the Effect of Off-Campus College Students on Poverty Rates, U.S. Census Bureau, Social, Economic & Housing Statistics Division, Poverty Statistics Branch (SEHSD) 2013-17, May 1, 2013.

development costs only, it begs the question of how this group will weigh in on programmatic issues such as rapid rehousing and the housing first philosophy associated with addressing our local homeless needs.

<b>CHARLOTTESVILLE AFFORDABLE HOUSING FUND</b>	<b>Amount</b>	<b>Supported Affordable Units</b>
<b>2007/08</b>		
Dogwood Housing purchase & preservation of affordable rental units (loan not grant)	\$ 850,000.00	57
Piedmont Housing Alliance - Monticello Vista purchase and preservation	\$ 200,000.00	50
CCDC Energy Efficiency Housing Audits	\$ 35,000.00	0
Habitat for Humanity (construction of 10 new homes)	\$ 220,000.00	10
Albemarle Housing Improvement Program (AHIP) Housing Rehabilitation Program	\$ 279,000.00	10
Piedmont Housing Alliance - Virnita Court Apartments rental property preservation	\$ 169,000.00	9
Piedmont Housing Alliance Workforce Housing Fund / Downpayment Assistance & Closing Costs	\$ 150,000.00	4
Piedmont Housing Alliance - renovation of historic property at 223 4th Street SW with accessory unit addition	\$ 50,000.00	0
JABA Homeshare Study	\$ 15,000.00	0
CRHA Strategic Planning for Redevelopment	\$ 210,000.00	0
Shelter for Help in Emergency (SHE) rehab of Mitchell House Facility and Rental Subsidy	\$ 35,113.00	0
Region 10 -Step Up Pilot Rent Subsidy Initiative for Mentally Impaired / Substance Abuse Individuals	\$ 235,887.00	0
Habitat for Humanity land purchase and predevelopment expenses for homes at the Sunrise Development	\$ 200,000.00	32
<b>SUBTOTAL</b>	<b>\$ 2,649,000.00</b>	<b>172</b>
<b>2008/09</b>		
Charlottesville Free Paint Program	\$ 25,000.00	0
Virginia Supportive Housing Single Room Occupancy Development	\$ 347,000.00	60
AHIP Emergency Housing Rehabilitation	\$ 50,000.00	25
AHIP Small Homeowner Rehab / Handicap Access Program	\$ 85,000.00	11
AHIP Housing Rehabilitation Program	\$ 30,363.00	2
Piedmont Housing Alliance Foreclosure Prevention Program	\$ 20,000.00	2
Habitat for Humanity LEED Duplex at Paton Street	\$ 144,637.00	2
Habitat for Humanity - ecoMOD #4 Utility Connections (104 Elliott Avenue)	\$ 10,000.00	1
CRHA Master Planning with PHAR	\$ 100,000.00	0
608 Ridge Street ecoREMOD House	\$ 100,000.00	1
TJACH Start-up cost related to First Street Church Homeless Shelter (a.k.a. the Haven)	\$ 12,500.00	0
Habitat for Humanity Paton Street Neighborhood Infrastructure	\$ 100,000.00	27
Piedmont Housing Alliance Monticello Vista Apartment (acquisition and rehab)	\$ 50,000.00	0
Thomas Jefferson Community Land Trust - startup expenses	\$ 15,000.00	0
HOME program match	\$ 140,000.00	0



Habitat for Humanity - ecoMOD #4 Site Improvements	\$ 25,000.00	0
Housing Advisory Committee Related Expenses (e.g., meals)	\$ 1,688.85	0
Region 10 - Step Up (Year 2) Rent Subsidy Initiative for Mentally Impaired / Substance Abuse Individuals	\$ 100,000.00	0
Habitat for Humanity - ecoMOD 4 Site Work at 104 Elliott Avenue	\$ 26,000.00	0
Region 10 -Step Up Pilot Rent Subsidy Initiative for Mentally Impaired / Substance Abuse Individuals	\$ 2,143.00	0
Piedmont Housing Alliance Downpayment Assistance Program	\$ 50,000.00	
<b>SUBTOTAL</b>	<b>\$ 1,434,331.85</b>	<b>131</b>
<b>2009/10</b>		
AHIP Housing Rehabilitation Program	\$ 100,000.00	5
Virginia Supportive Housing Single Room Occupancy Development	\$ 723,000.00	0
PHAR Bama Works Grant Matching Funds	\$ 25,000.00	0
LPDA Design Concept for Elliott Avenue	\$ 5,049.00	0
Virginia State Neighborhood Conference	\$ 500.00	0
HOME extra program match	\$ 31,875.40	0
<b>SUBTOTAL</b>	<b>\$ 885,424.40</b>	<b>5</b>
<b>2010/11</b>		
HOME Match	\$ 40,000.00	
Elliott Avenue Subdivision Survey - Southside MMM	\$ 3,850.00	
Elliott Avenue Charrette	\$ 5,000.00	
Charlottesville Free Paint Program	\$ 15,000.00	
AHIP Emergency Housing Repair	\$ 50,000.00	23
Housing Conditions & Land Use Survey	\$ 39,622.93	
ecoREMOD	\$ 138,837.75	
AHIP Housing Rehabilitation (funds expended in other fiscal years)	\$ 100,000.00	
Elliott Avenue Environmental Testing Work	\$ 4,256.40	
Habitat for Humanity Sunrise Development	\$ 400,000.00	
ASG Rental Subsidies for Persons with HIV/AIDS	\$ 15,000.00	
PHAR Match for Bama Works Grant	\$ 25,000.00	
PHA Downpayment Assessment Program	\$ 40,000.00	
Virginia Supportive Housing Single Room Occupancy Development	\$ 23,560.12	
Administrative Expenses	\$ 8,486.73	
<b>SUBTOTAL</b>	<b>\$ 908,613.93</b>	<b>23</b>
<b>2011/12</b>		
Housing Planner Salary & Benefits - Transfer to General Fund	\$ 89,179.00	
JABA Timberlake Acquisition	\$ 500,000.00	26
Habitat Paton Street Acquisition/Build - Region 10 & Thomas Jefferson Community Land Trust Units	\$ 690,000.00	3
JABA Timberlake Acquisition 2	\$ 117,000.00	
JABA Market Study Sunrise	\$ 10,500.00	
Building Goodness - Assistance with Building Goodness in April Event	\$ 20,000.00	

AHIP Emergency Housing Repair	\$ 50,000.00	29
AHIP Housing Rehabilitation	\$ 120,000.00	11
Habitat and AHIP Build a Block Planning Funds	\$ 35,000.00	
Habitat Down Payment Assistance Program for Sunrise Development	\$ 15,000.00	
CALM- Planning Grant for 991 5th Street S.W.	\$ 11,000.00	
Section 3 Coordinator Salary & Benefits	\$ 25,000.00	
Acquisition of Properties at 8th Street N.W. adjacent to Westhaven through Habitat for Humanity	\$ 140,000.00	
8th Street N.W. adjacent to Westhaven - extra closing costs	\$ 3,000.00	
8th Street N.W. Asbestos Testing in advance of demolition	\$ 600.00	
Motivation Inc Section 3 training	\$ 2,499.00	
Thomas Jefferson Community Land Trust - Cleveland Avenue Site Preparation	\$ 5,700.00	2
8th Street N.W. Demolition of Houses at 204 and 210 8th St N.W.	\$ 15,650.00	
Virginia Supportive Housing - Crossings at 4th & Preston Housing Vouchers	\$ 45,500.00	
CRHA Administration - Crossings at 4th & Preston Housing Vouchers	\$ 4,536.76	
Administrative Expenses	\$ 61,824.42	
<b>SUBTOTAL</b>	<b>\$ 1,872,810.18</b>	<b>71</b>
<b>2012/13</b>		
Charlottesville Redevelopment and Housing Authority Administrative Support	\$ 100,000.00	
PHAR - Match for Bama Works	\$ 25,000.00	
Virginia Supportive Housing - Crossings at 4th & Preston Housing Vouchers	\$ 156,492.00	
CRHA Administration - Crossings at 4th & Preston Housing Vouchers	\$ 17,617.32	
Promise Neighborhood Architectural Design for 210 8th Street N.W.	\$ 20,000.00	
AHIP Emergency Housing Repair	\$ 150,000.00	59
AHIP Housing Rehabilitation	\$ 200,000.00	23
HOME Match	\$ 58,000.00	
Section 3 Coordinator Salary & Benefits	\$ 55,000.00	
Habitat for Humanity Belmont Cottages	\$ 300,000.00	8
AHIP Block By Block Charlottesville (BXBC) Project (funds expended with FY 14)	\$ 400,000.00	
MACAA Hope House Program Expenses	\$ 40,000.00	
Administrative Expenses	\$ 30,000.00	
<b>SUBTOTAL</b>	<b>\$ 1,552,199.32</b>	<b>90</b>
<b>2013/14</b>		
Virginia Supportive Housing - Crossings at 4th & Preston Housing Vouchers	\$ 160,000.00	
CRHA Administration - Crossings at 4th & Preston Housing Vouchers	\$ 18,000.00	
CRHA Playground Equipment Purchase	\$ 100,000.00	
HOME Match	\$ 16,712.00	
AHIP Housing Rehabilitation	\$ 200,000.00	7
AHIP Emergency Housing Repair	\$ 100,000.00	19
Charlottesville Free Paint Program (assisted units reflects past 3 years)	\$ 5,000.00	64
Building Goodness Foundation - Block by Block Charlottesville (BXBC) Project	\$ 8,500.00	

AHIP Block By Block Charlottesville (BXBC) Project	\$ 250,000.00	9
CRHA Contingency Repayment (on hold pending future use)	\$ 200,000.00	
CALM/Habitat for Humanity/PHA 991 5 <sup>th</sup> Street S.W. Development	\$ 350,000.00	8
Section 3 Coordinator Salary	\$ 57,014.00	
<b>SUBTOTAL</b>	<b>\$ 1,115,226.00</b>	<b>107</b>

The following is a list of programs, policies and planning efforts that have been undertaken since the last housing report in 2012, but are not necessarily reflected in the above list of investments.

- Design for Life C'ville Program established and accessibility standards/requirements amended
- Extended Dogwood Housing loan until 10/31/2017
- Established Block by Block Charlottesville Program in 10<sup>th</sup> & Page Neighborhood
- Revision of Affordable Dwelling Unit (ADU) Ordinance to reference correct index
- Preparation and Adoption of Affordable Dwelling Unit Ordinance Regulations
- Update of Housing Chapter of the Comprehensive Plan
- Participation in Strategic Investment Area planning effort
- Participation in Strategic Action Team planning effort
- Sponsorship of Homelessness Symposium in November 2013

### Opportunities for Future Efforts

Staff plans to come back to City Council soon with a request to provide additional scattered site/emergency **housing rehabilitation through AHIP**. In addition, funds will also be sought to complete the Block by Block project in the Tenth and Page Neighborhood.

CHRA has recently approved changes to the **Charlottesville Development Corporation (CDC)** Articles of Incorporation. It is important that the CDC restructuring be finalized so that the group can initiate and begin to discuss the complexities required for CRHA redevelopment. The City can work cooperatively with CRHA to figure out a way to redevelop public housing sites which would allow for income mixing while taking advantage of existing infrastructure and close proximity to jobs, transit and cultural opportunities. Use of the CDC might also facilitate **use of the Public-Private Education Facilities Infrastructure Act** (a.k.a. PPEA) working cooperatively with our Office of Economic Development, which is pursuing establishing a means by which to implement this locally.<sup>7</sup>

Given the unknowns relative to utilizing CAHF for CRHA redevelopment and operations (as discussed at the December 16, 2013 Council meeting by City Manager Maurice Jones), there is much uncertainty as to what level of funding may be needed; however, there is **potential that additional funds (above the CIP level) will be available in the near future**.

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<sup>7</sup> Under PPEA, a "qualifying project" means (i) any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education; (ii) any building or facility that meets a public purpose and is developed or operated by or for any public entity;

- CRHA is actively working with Virginia Supportive Housing and the City to transition City paid housing vouchers for 21 units at the Crossings at Fourth & Preston over to HUD approved Project Based Vouchers in June. Albemarle County made the change for their 9 units in March 2014. When this occurs, the City will no longer be responsible for roughly \$160,000 in voucher costs and another \$18,000 in administrative expenses on an annual basis.
- Should the new student housing developments known as “the Standard” and “1000 West Main” proceed to construction, both will trigger the Affordable Dwelling Unit ordinance and potentially either add affordable units and/or contribute to the CAHF (as is required by the ADU ordinance). Either outcome would positively impact the City’s affordable housing efforts, providing additional resources to the CAHF and/or units toward our 15% goal.
- The City anticipates \$100,000 from development of the Water Street Promenade. Due to timing, it was initially thought that this payment would be used to off-set the costs associated with the CALM/Habitat/PHA effort on 5<sup>th</sup> Street; however, the funding would be available to meet any eligible CAHF expenses.

In order to prepare better for the future and to inform housing policy recommendations, staff would like to pursue a housing study that would include market and workforce components. The market component would quantify and identify **potential opportunities associated with recent off campus development of student housing** (i.e., 670 units along West Main Street) and the workforce portion of the study would look at **housing needs for City, School Board, and potentially UVA employees**. The study would attempt to respond/answer the following considerations:

1. Do students living in traditional neighborhoods affect/impact the affordability of those neighborhoods and consequently the surrounding housing market?
2. If there is new nearby (same value housing), will students move to that and how will that impact the use of units in more traditional student areas?
3. Do City / School Board employees and UVA faculty choose to live somewhere besides the City because of affordability issues or are there other considerations involved?
4. What is the economic impact of having these groups of people live in the City?
5. What can the City do to best influence possible market changes (short and long term) in both the rental and homeownership arenas and should we invest to make this happen?

#### Housing Market Study

- There are various theories about potential impact of new student off campus housing: 1) no change due to increases in number of students; 2) no change directly around the university, but properties further out will be impacted; 3) units proposed for students will be used by medical employees and their families; or 4) some combination of the above.
- Access to detailed UVA data regarding student and employee addresses would allow the City to quantify the level of student/employee housing inside the City and assist

with better understanding the implications of how this impacts affordable housing needs.

- The market data could help with other projects such as CRHA relocation planning, Southwood mobile home park relocation efforts, future low income housing tax credit conversions, and update to 2025 plan, as student housing impact was not taken into consideration with the original study. The implications are fairly broad and the potential is strong for being able to identify projects that will potentially benefit affordable housing efforts in the City.

### Workforce Housing Study

- Albemarle County did a similar study using GIS and Human Resources to look at where all their employees live, so that they could measure their carbon footprint. Charlottesville could do something similar to examine workforce housing needs and to find out: 1) would employees live in Charlottesville if they could and what are the obstacles involved (cost of housing, family considerations, schools, etc...) and 2) what would it take for employees to live in Charlottesville? Out of 34 employees in Neighborhood Development Services: 13 (38%) live in the City, 3 in Fluvanna, 6 in Green/Madison Counties, 2 in Augusta, and 1 in Orange. Out of this number only 1 employee does not live inside the City due to economic factors. While this represents a small scale informal analysis, understanding the larger picture would be useful to the City in making decisions regarding investments related to workforce housing.
- There would potentially be a way to assist employees with securing housing locally. Pursuant to Virginia Code §15.2-958.2, the City can provide grants (up to \$25K) to employees, school board employees and constitutional officers to purchase a home in the City. The City could also look at providing direct loans as well as junior mortgages that could be forgiven over a period of time, as employment is maintained with the City.

This proposed study has not been discussed specifically with the Housing Advisory Committee; however, staff has advocated for and there has been support of using limited funds to do research and data collection that would support decision making efforts. While this is not a formal request to fund such a study at this time, this is a potential project that staff would support.

### **Conclusion/Summary**

Charlottesville is maintaining the number of affordable units, but not significantly increasing its percentage of affordable housing stock. As new student rentals come on line over the next year or so, it will be difficult not to lose ground as large affordable projects are more the exception than the rule and location of such projects is problematic given conflict between Comprehensive Plan goals/objectives and funding streams (e.g., Low Income Housing Tax Credit) that prioritize location of such units in existing low income areas.

It is important to recognize that the 2025 Goals for Affordable Housing Report is focused on achieving a certain percentage of affordable housing units rather than focusing on helping individuals and families actually secure housing. Any goal that is solely focused on physical structures rather than human beings will potentially have negative social repercussions; therefore, due consideration needs to be afforded to reevaluating the goal and/or achieving compliance through incorporation of efforts that consider the variety of individual housing needs. The HAC is currently having discussions about this very issue, as this question has already arisen as a result of trying to update Housing Policy #1. Moving forward, the HAC will also need to consider the impact of university students on affordable housing needs as available information indicates that student data is impacting our ability to analyze local housing needs.

As the City looks ahead to refining their approach to affordable housing issues and to implementing Comprehensive Plan goals/objectives, we must be open to creative approaches and to use of the CDC to actively participate in efforts that will accomplish our goals. By studying both our housing market and workforce housing needs, the City will be better prepared to make policy and funding decisions.

# CITY OF CHARLOTTESVILLE, VIRGINIA CITY COUNCIL AGENDA



Agenda Date:	May 5, 2014
Action Required:	Approval of Resolution
Presenter:	Kathy McHugh, Housing Development Specialist
Staff Contacts:	James E. Tolbert, AICP, Director of NDS Kathy McHugh, Housing Development Specialist
Title:	<b>Allocation Charlottesville Affordable Housing Fund Dollars for HOME Matching Funds and AHIP Initiatives - \$636,712</b>

## **Background:**

In order to receive federal HOME dollars, City Council must provide local matching funds from non-federal sources. Since the creation of the Charlottesville Affordable Housing Fund (CAHF), this has been done through use of CAHF dollars. For Fiscal Year 2014-15, approximately \$20,000 is needed for local match, although this amount might decrease/increase slightly once the final allocation from the U.S. Department of Housing and Urban Development is known. It is not anticipated that the amount will vary significantly.

Further, City Council has historically approved funding on an as needed basis for the Albemarle Housing Improvement Program (AHIP) for various housing rehab related initiatives. Funding has been provided through various programs including CDBG, HOME and CAHF.

Current funding through CAHF for scattered site substantial housing rehabilitation and emergency repairs are virtually exhausted given on-going and planned projects. As of the end of the third quarter (March 31, 2014) AHIP reported 6 substantial rehabs (complete or in progress) and 39 emergency repairs (completed, on-going, or pending). Additionally, there is still a need for additional funding in order to complete the Block by Block Charlottesville (BXBC) project currently on-going in the Tenth and Page Neighborhood, as funded previously by Council on December 17, 2012 (\$400,000) and on July 15, 2013 (\$50,000). AHIP reports 10 housing units having been completed or in process, with funding still available to undertake an additional 4 houses. CAHF assistance has averaged \$41,603/house, but some \$186,000 of other funding has also been used or committed for houses being assisted under phase 1 efforts. Another 14 homeowners are on a waiting list for an anticipated phase 2 of this program.

## **Discussion:**

Staff would like to utilize a portion of available CAHF funds to provide additional assistance for AHIP initiatives, including: 1) the on-going scattered site substantial housing rehabilitation program, 2) emergency repair, and 3) the BXBC project currently on-going in the Tenth and Page Neighborhood.

Funds for substantial (scattered site) rehab have been fully committed by AHIP at this time, except for small amounts that may materialize as a result of cost under runs associated with on-going projects. As these amounts would be nominal, this fund needs to be replenished to proceed with scattered site rehab throughout the City. There are currently some 119 households on the waiting list representing roughly \$4.8 million in repairs.

After being heavily taxed during the recent harsh winter weather, we are proposing additional funds for emergency rehab to bolster AHIP's ability to respond to on-going requests. There are some 95 households on the current waiting list representing roughly \$238K in need with on-going demand that makes it difficult to anticipate and budget accordingly.

There are also funds recommended for use with the ongoing BXBC program as noted above. BXBC is a collaborative effort, which has brought together public, private, institutional, and non-profit partners. Some of these partners provide implementation support, some provide financial support, and some are involved in both sectors.

**Albemarle Housing Improvement Program (AHIP)** is the lead implementation organization, having tackled initial planning, client outreach, and partner coordination. AHIP is a Class A contractor and serves as general contractor for all rehab and energy efficiency work undertaken. AHIP also manages client intake, project financing and compliance, subcontractor and vendor bidding, volunteer and partner coordination, and marketing and media efforts. AHIP is focusing its private fundraising efforts in large part on BXBC, as part of its *Safe at Home* campaign. Houses that are home to senior citizens will also benefit from AHIP's *Seniors Safe at Home* partnership with the Charlottesville Area Association of Realtors and the Blue Ridge Home Builders Association, which raises funds, awareness and volunteer support for elderly neighbors' rehabs.

**UVa ecoREMODO:** The UVa Architecture and Engineering schools have been working with AHIP staff to bring energy efficiency and innovative, cost-effective design to the BXBC initiative, and to use this project as a real-world, mission-driven teaching tool for architecture, planning and engineering students. Activities have included the two-week Architecture Camp for middle- and high-school students, conducting energy audits on target-area homes, and design studios centered upon BXBC homes. This summer, ecoREMODO has provided \$20,000 in private funding for BXBC to support a studio that designed and built several quality of life interventions. UVA has also given a \$32,000 Jefferson Public Citizen grant to a team of ecoREMODO engineering students to monitor energy performance before and after rehab.



**Local Energy Alliance Program (LEAP)** is a primary partner for implementation of energy upgrades. LEAP and AHIP have worked together for the last few years through the Assisted Home Performance with Energy Star program (Assisted Program); moving forward, AHIP is LEAP's sole contractor of the Assisted Program, and each LEAP job will also be an AHIP project, in order to maximize resources and impact. LEAP's role with BXBC has made energy efficiency a central part of the rehab work.

**Habitat for Humanity of Greater Charlottesville (Habitat)** was part of the initial planning grant to study the feasibility of a Block by Block effort. Habitat will be a partner for this project should AHIP, upon assessing homes in the target area, determine that there are units that require sufficient repair work to merit a complete rebuild. To date, this has not been the case for any homes in the initial phase of BXBC, but drawing upon this partnership remains an option as the project proceeds.

**Building Goodness Foundation (BGF)** \$8,500 was previously awarded from the Charlottesville Affordable Housing Fund to aid their efforts on one BXBC home, for which BGF provided labor and materials to support rehab efforts. BGF's Building Goodness in April project, a partnership with the UVa Darden School of Business, is a community rehab blitz that takes place each spring. Building Goodness in April volunteers adopted three homes in the BXBC target area for the most recent effort, carrying out discrete rehab tasks in conjunction with AHIP crews and subcontractors.

**Associated General Contractors of Virginia (AGC)** has partnered with AHIP in the past to provide financial support, in-kind donations of building materials, and labor. For BXBC, AGC will be donating time and materials to support rehabilitation of the home of one of AHIP's elderly clients.

**Dominion Power**, a financial partner of BXBC, awarded a \$35,000 grant to ecoREMOD for work with LEAP and AHIP. This grant has allowed UVa students to undertake energy assessments and monitor results after rehab and upgrade work is completed.

**Wells Fargo Bank** has joined the BXBC effort as a key partner, providing funding and regional volunteer support for extensive upgrades and accessibility repairs at one home, with more projects planned over the next year. Initial funding from Wells Fargo will replace outdated appliances and provide a chair lift for an elderly woman who cannot easily traverse her stairs. Block by Block Charlottesville is going strong, with 10 projects completed and three waiting to start.

Additional assistance has been provided through other partners including, Madison House, CAAR, and the Blue Ridge Home Builders Association, as well as the Oak Hill Foundation. AHIP has recently applied for other major grants from local private sources, with \$20,000 requested from Bama Works Fund of Dave Matthews Band, \$50,000 requested from the Charlottesville Area Community Foundation, and \$100,000 (over two years) requested from the Perry

Foundation. Early feedback from has been excellent, and all three funding entities have been very enthusiastic over the project from conversations and tours over the last three months. Depending upon the outcome of these requests, additional City funding may be requested above the level recommended herein, but staff will continue to monitor this and will come back to Council in the future if necessary.

Matching funds for the FY 14/15 HOME allocation from HUD are also included herein. The amount required may vary slightly depending upon the final award from HUD; however, recommended herein is the estimated amount based on projected funding.

**Community Engagement:** The proposed use is a strategic recommendation from staff in support of additional funding for programs/projects that are consistent with Housing Advisory Committee (HAC) and Council adopted funding priorities. Specifically, City Council has adopted HAC recommended priorities for funding and these are used as the basis for analyzing projects. The HAC does not review specific individual requests for funding due to potential conflicts of interest. Approaching projects this way provides considerable flexibility for the City to work and partner with local housing non-profits to undertake projects that have the greatest potential for impacting our affordable housing goals.

**Alignment with City Council's Vision and Priority Areas:**

Approval of this agenda items aligns directly with Council's vision for Charlottesville to provide quality housing opportunities for all. Further, objective 4.9 of the newly adopted Comprehensive Plan states that the City will: "Continue to dedicate funds annually to support strategic initiatives for affordable and mixed use housing and existing housing rehabilitation and repair."

**Budgetary Impact:**

Budgetary impact is not a factor as these funds are available within the current CAHF appropriation.

**Recommendation:** Allocation of \$620,000 from previously appropriated funds in the Charlottesville Affordable Housing Fund. Following is the list of proposed uses and amounts to be allocated by City Council. Staff also recommends that previously allocated HOME Match funds (on July 15, 2013) be transferred from the Charlottesville Affordable Housing Fund to P-00507 HOME Project Funding Match in the amount of \$16,712.

<b>Proposed Use</b>	<b>Proposed Amount</b>
<b>HOME Matching Funds</b>	\$20,000*
<b>AHIP Scattered Site Rehab</b>	\$200,000
<b>AHIP Emergency Rehab</b>	\$100,000
<b>AHIP Block by Block</b>	\$300,000
<b>Total</b>	\$620,000.00

\*This amount is subject to change pending final HUD allocation of HOME funds.

**Alternatives:**

For HOME matching funds, there is no alternative as this is the amount required in order to receive Federal funding. For AHIP funding, Council could consider different levels of assistance; however, staff has examined both need and AHIP capacity in making the recommendations contained herein.

**Attachments:**

Resolution

**RESOLUTION**  
**Charlottesville Affordable Housing Fund Assistance for**  
**HOME Matching Funds and AHIP Initiatives**  
**\$636,712**

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Charlottesville, Virginia that the sum of \$20,000 be allocated and transferred from the Charlottesville Affordable Housing Fund in the following manner for the HOME Program Match, and

**BE IT FURTHER RESOLVED** that the sum of \$16,712 transferred from the Charlottesville Affordable Housing Fund in the following manner for the HOME Program Funding Match, and

Transfer From \$36,712:

Fund: 426	Project: CP-084 (P-00672)	G/L Account: 498010
Fund: 426	Project: CP-084 (P-00672)	G/L Account: 561425

Transfer To \$36,712:

Fund: 425	Project: P-00507	G/L Account: 599999
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**BE IT FURTHER RESOLVED**, that the sum of \$600,000 be allocated from previously appropriated funds in the Charlottesville Affordable Housing Fund in the following manner, and

Fund: 426	Project: CP-084	G/L Account: 599999
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AHIP Scattered Site Rehab	\$200,000
AHIP Emergency Rehab	\$100,000
AHIP Block by Block	\$300,000

**BE IT FURTHER RESOLVED**, that allocations for HOME Program matching funds from the Charlottesville Affordable Housing Fund shall be held in P-00507 for accounting purposes until grant funding is spent at which time the matching funds will be transferred to the corresponding grant account.



**CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA**

<b>Agenda Date:</b>	May 5, 2014
<b>Action Required:</b>	Approval of Ordinance
<b>Staff Contacts:</b>	Lisa Robertson, Chief Deputy City Attorney
<b>Presenter:</b>	Lisa Robertson; Marty Silman (Assistant City Engineer); Dan Frisbee (Public Works, Water Resources Specialist)
<b>Title:</b>	<b>Zoning and Subdivision Ordinance Amendments Related to Virginia Stormwater Management Program Regulations</b>

**Background:** As you are aware, effective July 1, 2014, Virginia’s MS14 localities are required to adopt what is known as a “Virginia Stormwater Management Program (“VSMP”). Essentially, this is a requirement for localities to take over the administration and enforcement of the State’s stormwater management regulations, using local personnel. Separately, you are considering revisions to Chapter 10 of the City Code (Water Protection Ordinance) to incorporate the state-mandated requirements for administration of a local stormwater management program.

**Discussion:** In order to assure that the new local VSMP will work as intended in relation to residential and commercial developments, permits authorizing the commencement of land disturbing activities must be tied to, and applied in the context of, development approvals (review of site plans and subdivision plats). Per VA Code 62.1-44.15:27(E)(3), the City’s new VSMP must be integrated not only with its MS4 Program and Erosion and Sediment Control Program, but also with other programs requiring compliance prior to authorization of construction (required Subdivision/ Site Plan approvals; approval of building permits, demolition permits, and foundation permits; floodplain management; timing for the completion of important development infrastructure; etc.)

**SUMMARY OF PROPOSED SUBDIVISION AND ZONING ORDINANCE  
CHANGES:**

(1) *Integration of Stormwater Design and Engineering with Subdivision and Site Plan Approvals*—Procedural requirements for submission of site plans and subdivision plats, and standards for review of the adequacy of drainage within a proposed

development, should be addressed in both Chapter 29 (Subdivisions) (“S.O.”) and Chapter 34 (Zoning) (“Z.O.”) and should clearly be tied to the separate requirements of Chapter 10. The requirements/ standards applied to the review of a proposed development should be unified—they should not differ based on the process for approval of the development (subdivision or site plan approval).

The issue of the overall adequacy of drainage within a proposed development is a matter within the purview of the City’s Site Plan/ Subdivision Agent’s<sup>1</sup> review, *see* VA Code 15.2-2244(A)(3). “Drainage” includes not only treatments and improvements required for compliance with Chapter 10 (VSMP), but also additional information and protections established within the City’s zoning and subdivision ordinances (such as those intended for the protection of steep slopes). The most efficient way to accomplish this is to require the submission of the proposed stormwater management plans and information required by Chapter 10, *together with* topographic survey details (such as the location of critical slopes, streams and natural drainage areas)—all as part of the site plan/subdivision review process. *See* S.O. sections **29-111(a)** and **(b)** (required documents and information for preliminary and final subdivision plats); *see also* Z.O. sections **34-827 / 34-828** (preliminary and final site plan contents).

The end result of this: the Subdivision/ Site Plan Agent will have more information up front, during review of development plans, to see how the requirements of Chapter 10 and the state stormwater regulations will be applied to a particular development, in its entirety. Although the Subdivision/ Site Plan Agent will not have the ability to vary the requirements of *Chapter 10*, the Agent can take that information into account in making his or her own, separate determination as to whether the treatment and management of drainage within a proposed development is adequate for purposes of the provisions of the City’s Subdivision and Zoning ordinances.

**(2) Provisions for Bonding and Timing of Completion of Required Improvements.** Stormwater management facilities are types of improvements for which the City may require financial assurances of completion of construction, as part of the development approval process. S.O. section **29-260**, and the corresponding provision of the site plan ordinance, Z.O. section **34-803**, have been updated to reflect the need for construction of important infrastructure, such as stormwater management facilities, prior to occupancy of the development, or at planned stages of a phased development, by agreement with the City.

**Budgetary Impact:** None.

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<sup>1</sup> Under our local procedures, the Agent for approval of a Subdivision/ Site Plan is, depending on the nature and size of a development, either the Director of NDS (or his designee) or the Planning Commission.

**Recommendation:** We recommend adoption of the Ordinance amendments.

**Alternatives:** None recommended.

**Attachments:** Proposed Ordinance Amending City Code Chapter 29 (Subdivision of Land) and Chapter 34 (Zoning)

**AN ORDINANCE TO AMEND CHAPTERS 29 (SUBDIVISIONS) AND 34  
(ZONING) OF THE CODE OF THE CITY OF CHARLOTTESVILLE (1990), AS  
AMENDED, TO REVISE THE SUBMISSION, APPROVAL AND BONDING  
REQUIREMENTS ASSOCIATED WITH DEVELOPMENT PLANS  
(SITE PLANS AND SUBDIVISION PLATS)**

WHEREAS, the Charlottesville Planning Commission, by motion, has initiated certain changes to the City's Subdivision and Zoning Ordinances, in order to coordinate the City's processes for review of proposed developments, through approval of site plans and subdivision plats, with the requirements of the City's Water Protection Ordinance and in particular, the City's local Virginia Stormwater Management and Virginia Erosion and Sediment Control Programs, as they will be in effect as of July 1, 2014; and

WHEREAS, on April 8, 2014, the Planning Commission and City Council held a joint public hearing on the proposed amendments, pursuant to public notice as required by §15.2-2204; and

WHEREAS, on April 8, 2014, the Planning Commission voted to recommend to City Council that Council adopt the proposed changes to the City's Subdivision and Zoning Ordinances, upon finding that such changes are required by the public necessity, convenience, general welfare or good zoning practice; and

WHEREAS, this Council agrees and finds that the amendments proposed to Chapters 29 and 34 of the City Code, as recommended by the Planning Commission are required by the public necessity, convenience, general welfare or good zoning practice; Now, therefore,

BE IT ORDAINED by the Council for the City of Charlottesville, Virginia:

- 1. Chapter 29 (Subdivisions) of the City Code, Sections 29-2, 29-3, 29-76, 29-111, 29-161, 29-202, 29-231, 29-232, and 29-260 are amended and re-enacted, to read as follows:**

**Sec. 29-2. Purpose.**

The purposes of this chapter are to:

- (1) Improve the public health, safety, convenience and welfare of the citizens of the city, by assuring the orderly division of land and its development;
- (2) Implement the comprehensive plan and the policies stated in section 34-3 of the zoning ordinance through the standards and procedures established herein;
- (3) Assure that the development of the city is consonant with efficient and economical use of public funds;



- (4) Assure that improvements required by this chapter will be designed, constructed and maintained so as not to become an undue burden on the community; and
- (5) Integrate the subdivision approval process with the city's local stormwater management and erosion and sediment control programs, in order to make the submission and approval of plans, issuance of permits, payment of fees and coordination of inspection and enforcement activities more efficient.

**Sec. 29-3. Definitions.**

....

Developer means the person who owns, or who controls, a tract of land developed or to be developed as a unit, which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. In context, the term shall be construed to include a subdivider.

....

*Subdivider* means one (1) or more persons who own property to be subdivided, and such person's agent(s) and successor(s) in interest, including, without limitation, the person who develops such property (see also the definition of developer).

....

**Sec. 29-76. Approval of preliminary and final subdivision plats, generally.**

(a) *Review and approval.* The commission shall review and approve preliminary plats for major subdivisions pursuant to section 29-80(a) below. The agent shall review and approve final plats pursuant to section 29-82(a), except when one (1) or more of the circumstances described in section 29-82(b)(1) are met, in which case the commission shall review and approve final plats.

(b)....

(e) *Period of validity.* The period of validity shall be as referenced in section 29-37.

(f)....

(g) Stormwater management and erosion and sediment control plans. Approval of a final stormwater management plan, and approval of a final erosion and sediment control plan, as may be applicable, is a condition of final plat approval. The agent shall not sign any final plat, unless and until final plans and approvals required by chapter 10 have been obtained.

....

**Sec. 29-111. Required documents and information.**

(a) *Preliminary plat requirements.* The following documents and information shall be submitted along with each preliminary plat, or, if none, with each final plat:

- (1) *Request for critical slopes waiver.* If the need for a waiver is known at the time of submission, the subdivider shall submit a written request and justification for any requested waiver under section 34-1120 of the zoning ordinance, authorizing the disturbance of critical slopes. The applicant shall provide information, drawings and narrative details, addressing how the layout and location of proposed streets, utilities, stormwater management facilities, etc. will minimize the disturbance of critical slopes and natural drainage areas.
- (2) *Stormwater management information.* ~~The Standards and Design Manual provides stormwater management information and establishes stormwater requirements. A statement of compliance with relevant requirements for stormwater management shall be submitted.~~ Topographic information submitted with a preliminary plat shall be in the form of a topographic survey, which shall identify areas of critical slopes, as defined in Sec. 29-3, natural streams, natural drainage areas, and other topographic features of the site. The applicant shall provide a stormwater management concept detailing how the applicant will achieve adequate drainage post-development, including a description of the specific design concept the applicant plans to apply. References to specific types of stormwater management facilities, specific treatments, BMPs, LID techniques, etc. shall be provided. The stormwater management concept shall be prepared by a professional engineer or landscape architect, as those terms are defined in Code of Virginia Sec. 54.1-400, and shall describe the manner in which stormwater runoff from the subdivision will be controlled in order to minimize the damage to neighboring properties and receiving streams, and prevent the discharge of pollutants into surface waters, in accordance with the requirements of City Code Chapter 10.
- (3) ....

(b) *Final plat requirements.* In addition to any information required by paragraph (a), above, the following documents or information shall be submitted with each final plat, unless included in the site plan previously approved or under review:

- (1) *Infrastructure plans and computations in accordance with the Standards and Design Manual.* Detailed plans, computations and necessary supporting documents for physical improvements including, but not limited to, traffic studies, street plans and cross sections, soil testing results, gas utilities, ~~drainage plans and computations,~~ sewer and water plans and computations, ~~erosion and sediment control plans and stormwater management plans and computations required by the water protection ordinance,~~ landscape plans, parking calculations and other requirements of applicable zoning regulations, flooding computations and plans (if applicable), and any other plans, calculations and details documents deemed

necessary by the city engineer in consultation with the director of public works, in order to determine compliance with the development standards set forth within article IV of this chapter. The agent may, pursuant to section 29-36, and in its sole discretion, waive any of these requirements for minor subdivisions, except the requirements for drainage and flood control plans and soil characteristics. Information, details, calculations, construction plans and other documents or data required by chapter 10 for a final stormwater management plan and a final erosion and sediment control plan shall be included.

(2) ....

(10) *Instruments evidencing affordable housing requirements.* If the subdivision includes land that is subject to an affordable housing obligation arising under section 34-12(a) or 34-12(d)(1), the subdivider shall submit with the final plat the instrument(s) assuring the reservation of land for such obligation, in such format as may be required by the regulations enacted pursuant to section 34-12(g).

(c) Subject to the provisions of Sec. 29-36, the agent may grant variations or exceptions to particular submission requirements articulated within this section, or within Sec. 29-110, for a boundary line adjustment or minor subdivision; provided, however, that the agent may not grant variations or exceptions to (i) any requirements of chapter 10, or any requirements or standards set forth within this chapter relating to drainage or flood control, or (ii) any requirements applicable to the layout, design and construction of public streets or other public facilities.

#### **Sec. 29-161. Lots.**

(a) Each lot within a subdivision shall satisfy applicable lot size, buildable area and other requirements of the city's zoning ordinance, and of this chapter, and shall have frontage either:

(1) On a street dedicated to the public which, once constructed and improved by the subdivider will qualify for acceptance into the city's street system, or

(2) On a private street in a townhouse development, pursuant to City Code section 34-388(b).

(b)....

(c)....

(d)....

(e) Side lot lines of each lot shall be approximately at right angles or radial to the street line, except turnaround terminal points. The agent or commission may vary or grant exceptions to this requirement, pursuant to section 29-36 above.

(f)....

**Sec. 29-202. Stormwater management and drainage facilities.**

(a) Every development shall be designed so that construction of buildings, structures, public facilities and other site-related improvements will minimize disturbance of natural drainage areas and critical slopes. Structures necessary to ensure stability of critical slopes shall be provided.

(b) Every development will be designed to achieve state and local requirements for post-development stormwater management, including measures addressing both the quantity and quality of stormwater, as set forth within Stormwater management and drainage facilities shall be implemented in accordance with the Standards and Design Manual and all other applicable city ordinances, including Chapter 10 of the City Code and the Standards and Design Manual.

....

**Sec. 29-231. Dedication of streets, curb and gutter, water and sewer facilities, etc. for public use.**

(a) The agent or commission shall require a subdivider to dedicate to the city for public use every easement and right-of-way located within the subdivision or section thereof, which has constructed or proposed to be constructed therein any each public street, curb, gutter, sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement dedicated for public use and to be maintained by the City or another public agency (including each non-constructed street extension, and each required curb, gutter, sidewalk, bicycle trail, stormwater management facility and drainage improvement for the public street) and the agent or commission may require a subdivider to dedicate to the city for public use any stormwater management facility, bicycle trail or pedestrian trail within a subdivision or section thereof, as follows: ....

(b)....

(c) The agent or commission shall require each subdivider to establish easements for facilities for stormwater management and drainage control, as follows:

- (1) An easement for all stormwater management facilities and drainage control improvements located on the property shall be established whenever the improvement is designed and/or constructed beyond a street right-of-way or access easement and shall extend from all drainage outfalls to an adequate channel that satisfies minimum standards established by the Virginia Department of Environmental Quality or the State Water Control Board~~Conservation and Recreation~~, to the boundary of the property.
- (2) An easement shall be established along every~~any~~ natural stream, natural drainage area to be preserved, and every ~~or~~ manmade waterway located on the property.

- (3) The area of each required easement shall be sufficient, as determined by the city engineer, to: (i) accommodate the facilities and the drainage characteristics from each drainage outfall from a drainage control, ~~and~~ (ii) allow access to a natural stream or manmade waterway to allow widening, deepening, relocating, improving, or protecting the natural stream or manmade waterway for drainage purposes, and (iii) to meet applicable standards and requirements set forth within Chapter 10 and the Design and Standards Manual.

(4)....

**Sec. 29-232. Dedication of land or stormwater management facilities for public use.**

A subdivider may dedicate to the city any land within the subdivision that is suitable for parks, open space, stormwater management facilities and other public facilities, utilities and other public or semipublic uses, as follows:

- (1) The city council shall not be required to compensate the subdivider for the land dedicated if the dedication is a gift, required by a proffer as part of a conditional rezoning, required as a condition of a special use permit, variance or other approval, or if the need for the land is substantially generated by the subdivision. The determination of whether the need for land is substantially generated by the subdivision shall be made in the manner prescribed by section 29-230(2).
- (2) Land dedicated under this section shall be set apart on the final plat and shall be identified by a note on the plat stating that the land is dedicated for public use. The proposed dedication shall be subject to review as to consistency with the City's Comprehensive Plan, as required by Code of Virginia § 15.2-2232.
- (3) A subdivider's proposed dedication of a stormwater management facility shall be reviewed and governed by the provisions of City Code section ~~10-57~~ 10-56. No such dedication shall be accepted unless and until the City receives a financial guarantee, in the form of a bond or like surety, in an amount sufficient for and conditioned upon the construction of such stormwater management facilities in accordance with the standards and requirements set forth within Chapter 10 and the Design and Standards Manual.

**Sec. 29-260. Satisfactory completion of site-related improvements required.**

(a) ~~Prior to approval of a final plat, a~~ A developer/subdivider shall must either (i) complete all site-related improvements required by this chapter prior to issuance of the first certificate of occupancy for any building within a development, or (ii) ~~must enter into~~ execute an written agreement with the city to complete the construction of all such site-related improvements within a period of time set forth within such agreement, relative to a specified plan for phasing of the proposed development. In either case: prior to issuance of any building permit, and prior to issuance of any permit authorizing any land disturbing activity within the development, the developer shall provide a financial performance guarantee for completion of the site-related improvements, as set forth within paragraph (c), below agreed to by the agent and furnish to the agent a surety conditioned upon satisfactory

completion of the required improvements. For the purposes of this section, the term “site-related improvements” means the following facilities: every public street, curb, gutter sidewalk, bicycle trail, drainage or sewerage system, waterline as part of a public system, or other improvement dedicated for public use and proposed to be maintained by the City or another public agency; and other improvements required by this chapter, and to be financed in whole or in part by private funds, for: vehicular ingress and egress, including traffic signalization and control, for public access streets, for structures necessary to ensure stability of critical slopes, and for stormwater management facilities.

(b) Upon completion of required site-related improvements, a ~~developer subdivider~~ shall submit to the agent a certificate of completion prepared by a professional engineer or a land surveyor, and the ~~developer subdivider~~ shall also submit his or her own certification to the agent that all of the construction costs for the improvements, including those for materials and labor, have been paid to the person(s) constructing the improvements.

(c) Every final plat approval shall be conditioned upon compliance with all of the requirements of this section. Prior to such final approval, and prior to the agent’s signature of the final plat, the agent shall obtain the subdivider’s written acknowledgement of the obligation and applicable time period for completing construction of the site-related improvements. The obligation to complete construction of all site-related improvements in accordance with City requirements, standards and specifications, and within the applicable time period, shall be backed by an adequate performance guarantee, established Pending actual completion of all site-related improvements, a final plat may be approved as follows:

(1) ~~A developer The subdivider~~ shall furnish to the agent a financial guarantee, which shall be one of the following~~city attorney~~: (i) a certified check or cash escrow ~~in the amount of the estimated costs of construction~~; (ii) a personal, corporate or property bond, with surety satisfactory to the city; (iii) a contract for the construction of such facilities and the construction contractor's bond, with like surety, ~~in like amount and so conditioned~~; or (iii) a bank or savings institution's letter of credit on certain designated funds satisfactory to the city as to the bank or savings institution, the amount and the form. Each financial guarantee shall be in an amount sufficient for and conditioned upon the equal to the estimated cost of construction of the required site-related facilities, based on unit prices for new public or private sector construction within the city, and in a form satisfactory to the city attorney. The amount of such certified check, cash escrow, bond, or letter of credit shall not exceed the total of the estimated cost of construction based on unit prices for new public or private sector construction within the city and plus a reasonable allowance for estimated administrative costs, inflation, and potential damage to existing roads or utilities, which shall not exceed twenty-five (25) percent of the estimated construction costs. Every financial guarantee shall be conditioned upon completion of construction of the site-related improvements in accordance with City ordinances, regulations and standards, within the time period applicable under paragraph (a) of this section.

(2) If a subdivider records a final plat which may be a section of a subdivision as shown on an approved preliminary plat, and furnishes to the governing body at the

same time ~~that construction plans are submitted,~~ a certified check, cash escrow, bond, or letter of credit, in ~~the~~such amount and conditioned as specified within paragraph (c)(1), above, to ensure completion of of the estimated cost of construction of the site-related facilities to be dedicated for public use within that section ~~for public use,~~ then the subdivider shall have the right to record the remaining sections shown on the preliminary subdivision plat for a period of five (5) years from the recordation date of the first section, or for such longer period as the agent may, at the time of approval of the plat for the first section, determine to be reasonable, taking into consideration the size and phasing of the proposed development, subject to the terms and conditions of this subsection and subject further to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded. The amount of the financial guarantee for site-related improvements in each subsequent section shall be established, and such financial guarantee shall be provided by the developer to the agent, prior to issuance of any building permit or any other permit authorizing land disturbing activity within that section.

(d)....

- 2. Chapter 34 (Zoning) of the City Code, Sections 34-803, 34-827, 34-828 are hereby amended and re-enacted, to read as follows:**

**Sec. 34-803. Improvements—Construction and bonding.**

- (a)....
- (b)....
- (c)....

(d) Every developer, and every final site plan approval for a development, shall be subject to the provisions of City Code § 29-260, *mutatis mutandis*. Prior to the final approval of any site plan, there shall be executed by the developer an agreement to construct all improvements that are to be dedicated to public use. Prior to final approval of a site plan, issuance of a building permit, or issuance of a certificate of occupancy, the city engineer may require a bond, with surety, in an amount sufficient to cover the estimated costs of such improvements. In determining the estimated costs of the improvements to be bonded, the developer shall submit an estimate of such costs that shall be reviewed and approved by the city engineer. The agreement and bond shall provide for and be conditioned upon completion of all work within a time specified by the city engineer. Otherwise, the completion of all other improvements required by or pursuant to this section shall be certified and/or bonded at the time of issuance of a certificate of occupancy.

**Sec. 34-827. Preliminary site plan contents.**

- (a)....
- (b)....
- (c)....

(d) The preliminary site plan shall contain the following information:

- (1)....
- (2)....
- (3)....
- (4) Existing topography for the entire site at maximum five-foot contours; proposed grading (maximum two-foot contours), supplemented where necessary by spot elevations; and sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the director. Topographic information submitted with a preliminary plat shall be in the form of a topographic survey, which shall identify areas of critical slopes, as defined in Sec. 29-3, natural streams, natural drainage areas, and other topographic features of the site.
- (5) Existing landscape features as described in section 34-867 (requirements of landscape plans), including all individual trees of six (6) inch caliper or greater.
- (6)....



- (7) One hundred-year flood plain limits, as shown on the official flood insurance maps for the City of Charlottesville, as well as the limits of all floodway areas and base flood elevation data required by section 34-253.
- (8)...
- (9) Location and size of ~~existing water, sanitary and storm sewer facilities and easements;~~ drainage channels, and existing and proposed drainage easements; and a stormwater management concept detailing how the applicant will achieve adequate drainage post-development, including a description of the specific design concept the applicant plans to apply. References to specific types of stormwater management facilities, specific treatments, BMPs, LID techniques, etc. shall be provided. The stormwater management concept shall be prepared by a professional engineer or landscape architect, as those terms are defined within Virginia Code Sec. 54.1-400, and shall describe the manner in which stormwater runoff from the subdivision will be controlled in order to minimize the damage to neighboring properties and receiving streams, and prevent the discharge of pollutants into surface waters, in accordance with the requirements of City Code Chapter 10.
- (10) Location and size of existing water, sanitary and storm sewer facilities and easements, and pProposed conceptual layout for water and sanitary sewer facilities and public storm sewer facilities.
- (11)....
- (12)....
- (13)....
- (14)....
- (15) Landscape plan, in accordance with [section 34-867](#), if the proposed site plan is subject to entrance corridor review.

**Sec. 34-828. Final site plan contents.**

- (a)....
- (b)....
- (c)....
- (d) The final site plan shall reflect conditions of approval of the preliminary site plan, and shall meet all requirements set forth within Code of Virginia §15.2-2240 et seq. In addition, ~~to all the information required on the preliminary site plan,~~ the final site plan shall contain the following information:
  - (1) The location, character, size, height and orientation of proposed signs, as proposed to be installed or erected in accordance with Article IX, sections [34-1020](#), et seq. of this chapter; and elevations of buildings showing signs to be placed on exterior walls.  
Signs which are approved in accordance with this section shall be considered a part

of the approved site plan. Thereafter, signs shall not be installed, erected, painted, constructed, structurally altered, hung, rehung or replaced except in conformity with the approved site plan. Any changes in signs from the approved site plan or any additions to the number of signs as shown on the site plan shall be allowed only after amendment of the site plan by the director of neighborhood development services or the planning commission.

(2)...

(3)....

(4)....

(5)....

(6) Detailed [stormwater management plans, and](#) construction drainage and grading plans, showing:

a. Profiles of all ditches and channels, whether proposed or existing, with existing and proposed grades; invert of ditches, cross pipes or utilities; typical channel cross sections for new construction; and actual cross sections for existing channels intended to remain.

b. Profiles of all storm drainage systems showing existing and proposed grades.

c. Plan view of all drainage systems with all structures, pipes and channels numbered or lettered on the plan and profile views. Show sufficient dimensions and bench marks to allow field stake out of all proposed work from the boundary lines.

d. A drainage summary table for culverts, storm drainage facilities and channels.

e. A legend showing all symbols and abbreviations used on the plan.

f. [Information, details, calculations, construction plans and other documents or data required by chapter 10 for a final stormwater management plan shall be included, along with such other information, plans, calculations, and details sufficient to demonstrate compliance with the standards for drainage set forth within article IV of the City's subdivision ordinance.](#)

g. [Information, details, calculations, plans and other documents or data required by chapter 10 for an erosion and sediment control plan.](#)

(7)...

(8)....

(9)....

(10) Signature panel for the ~~director~~ preparer, [consistent with the requirements of paragraph \(a\), above.](#)

(11)....

....

3. **The effective date of this Ordinance shall be July 1, 2014.**

**CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA**



Agenda Date:	May 5, 2014
Action Required:	None
Presenter:	Chief Timothy J. Longo Senior, Charlottesville Police Department
Staff Contacts:	Chief Timothy J. Longo Senior, Charlottesville Police Department
<b>Title:</b>	<b>Charlottesville Police Department Update</b>

**Background:**

Chief Timothy Longo will provide City Council with an update of the Police department's current initiatives and programs, as well as present a five year review of Part I crime data and operational trends.

**Alignment with City Council's Vision and Priority Areas:**

This agenda item aligns directly with Council's vision for Charlottesville to be **America's Healthiest City** and contributes to their 2012-2014 priority to have a strong support system in place by maintaining our emergency response system among the nation's best. It also aligns with the priority of having a **Smart Citizen Focused Government**, to ensure the delivery of quality services and ensuring safe neighborhoods.

**Attachments:**

A power point presentation with representative graphs and other relevant information will be presented during the Council meeting.

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**CITY OF CHARLOTTESVILLE, VIRGINIA  
CITY COUNCIL AGENDA**



Agenda Date:	May 5, 2013
Action Required:	Report
Presenter:	Bitsy Waters, Tree Commission
Staff Contacts:	Chris Gensic, Parks and Recreation
<b>Title:</b>	<b>State of the Forest - Annual Report</b>

**Background:**

The Tree Commission gives an annual state of the forest address to Council to provide updates on what has occurred recently and what is planned for activities related to Charlottesville's urban forest and tree canopy.

**Alignment with City Council's Vision and Priority Areas:**

The Commission works primarily on council's vision to be a Green City.

**Attachments:**

Copy of the state of the forest report.

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## **Charlottesville Tree Commission Annual Report to City Council**

Mayor Huja and Members of Council: Thank you for the opportunity to present the annual report of the Tree Commission. This past year has been a busy one for us and we appreciate all of the support you've provided for our efforts.

When we began our work almost three years ago, we quickly realized that preserving and enhancing Charlottesville's tree canopy as the community grows and changes wouldn't be easy. Trees tend to be taken for granted. They compete for space with other things our community values. They don't live forever and often aren't replaced or are replaced with small trees that don't provide the environmental, economic and quality of life benefits of large trees. We realized that to be effective in carrying out our role we would need to look comprehensively at how the city makes decisions and spends its resources.

In the past year we've reached out to many partners inside and outside of city government to promote the city's urban forest goals and are encouraged about our growing ability to form effective partnerships. I think we're all beginning to recognize that multiple decisions made by many different departments are affecting our city's trees and what the city will look and be like in the years ahead. It is critical for us to bring those separate polices and decision-making processes together to get the outcomes we want.

We thank you for adopting the Context Sensitive Design Resolution and the implementation process to make its intent a reality. We believe this is a very important first step in moving forward with integrated decision-making. We hope it will lead to many win-win outcomes, but where this isn't achievable, at least it will provide open discussion about setting priorities among competing public goods. We also support the new urban design position being added to city staff. With so much development going on, it is critical to use some of the new tax dollars this generates to be sure this is done in ways that preserve and enhance the livability of our city.

Earlier this spring, you heard about the ongoing work of the Department of Parks and Recreation to plant trees and acquire additional urban forest land. Tonight, we want to highlight the Commission's activities over the past year and to let you know some of the things we will focus on in 2014.

### **Highlights of 2013**

1. We have become the recognized advocacy voice for trees in the City of Charlottesville. With your assistance we secured a seat on the PLACE Design Task Force to be sure that urban forestry goals continue to be a high priority in the work of that group and the city as a whole.

2. We co-sponsored Arbor Day events with the Charlottesville-Albemarle Tree Stewards and partnered with them in a fall tree-planting sales. The sales were held on 3 consecutive Saturdays in October at the City Market. Over three hundred small trees of many different varieties went off to new homes for a nominal cost. Additional events of this kind are planned for this year.
3. We developed the city's first Tree Conservation Ordinance. (Attachment A). Thank you for adopting the ordinance. We're currently working on the criteria and nomination process to get individual trees protected and will be bringing a first round of nominations to you in the near future.
4. We completed a preliminary review of current City zoning and development policies as they pertain to trees. (Attachment B) We found that there are a number of elements in our existing ordinances and practices that actually discourage tree planting. We have passed these findings and some specific recommendations on to Neighborhood Development Services and asked that our findings be incorporated into code revision discussions during the implementation process called for as part of the Context Sensitive Design Resolution.
5. We reviewed the Department of Public Works Utilities Division "Policy for Planting Within or Near Utility Easements". We appreciate the need to preserve the integrity of underground utilities, but if policies are developed strictly with utility protection in mind, we could end up with few or no street trees in many situations. We have passed our comments on the policy along to the Utilities Division (Attachment C), with examples of how these potential conflicts have been handled in a tree friendly manner in other communities. Once again, we have asked that the easement policy become part of the broader inter-departmental review process called for in the Context Sensitive Design Resolution so utility protection can be balanced with community tree planting goals as our policies are revisited and revised.
6. Our advocacy over the past year has led to additional tree planting in connection with several large development projects in major city corridors.
  - When one of our members alerted us to the fact that the new Water St. extended was being constructed without any street trees, we asked to have the project revisited at the 11<sup>th</sup> hour. We worked with city departments, the local bike and pedestrian community to find ways to have street trees incorporated with the other public infrastructure. We deeply appreciate everyone's willingness to revisit this issue and the funds you provided to support this.
  - We are participating in efforts to ensure that new zoning and design guidelines for West Main Street will provide adequate space for and attention to street trees in one of our city's most important and visible corridors. We have met with the consultants and attended community events and look forward to continuing to be part of this process.



- We have identified the Cherry Avenue-Elliott Avenue corridors as priorities for additional street tree planting. When the Burnett Commons III project came on the drawing board, we reached out to Southern Development, and worked with them, Habitat for Humanity and various city departments to increase the number of street and other trees included in and around that development project. This will compliment additional street trees planted by the City last year in Oakwood Cemetery. We hope the CDBG infrastructure project on Cherry Avenue will include as many street trees as possible.
  - We supported neighborhood efforts to ensure maximum tree protection and appropriate tree replanting in connection with the new McIntire Interchange.
7. We continue to pursue the creation of a “Powerline Friendly Tree Showcase” on JPA extended between Fry Springs Beach Club and the Fontaine-JPA interchange. We have worked with the Department of Parks and Recreation to add to the diversity of small trees planted in the median of the roadway, which also includes above ground utilities. We have met with the JPA Neighborhood Association to secure their support and are applying to a private foundation for funding to erect a sign that will identify the showcase and provide links to information on utility friendly trees. We will continue to advocate for planting large shade trees wherever possible in the city, but recognize there are some locations where smaller trees are the only appropriate solution until such time as we are able to place more utilities underground.
  8. Finally, we asked the Department of Parks and Recreation to provide a briefing on where and how the city spends money on tree planting, maintenance and preservation. The fact that investment in tree planting is part of a Capital Improvements Budget item that also includes funds for storm clean-up and land acquisition makes it difficult to determine exactly how much money is available annually to plant and maintain young trees and tend our existing canopy. Understanding this better will help us become more effective advocates for investment in trees, which are so essential to the health, vitality and beauty of our city.

## **Looking Ahead**

As we move into the year ahead, we anticipate focusing on a number of important issues.

- Street Trees. We will continue to work with others on maximizing street tree planting and preservation through implementation of the Context Sensitive Design Resolution and other mechanisms. The City’s 1975 Guidelines for a Street Tree Planting Master Program is still a valuable reference in this regard. We do well planting additional trees at our schools and parks. We do less well ensuring that street trees are a high priority in all development and re-development projects in the city. Our goal is to have street trees be a priority whenever public or private plans or projects are being developed or reviewed.

- Tree Friendly Laws, Policies and Procedures. We will continue to work with others to make sure city zoning laws, policies and administrative procedures are as tree friendly as possible, recognizing that the community is often trying to balance a number of important public values simultaneously.
- Trees as Green Infrastructure. As the City goes about developing its stormwater management programs we want to be sure trees are recognized as an essential component of the City's stormwater management and green infrastructure activities. We invited the city's stormwater management team to our meeting last month so we could begin to talk about ways we can work together to advance shared goals.
- Adequate Funding for Trees. The cost of buying a tree and getting it in the ground is the tip of the iceberg in terms of the cost of building and maintaining an urban forest. Money is needed for staff and equipment to keep the young trees we plant alive in their first two years. Sometimes we need money to improve soil quality, insert barriers to protect utilities or other innovative planting techniques to plant street trees that will grow and thrive. Significant numbers of large trees die or are lost to development and redevelopment every year and we still have neighborhoods and major corridors with very limited tree canopy. We want to work with you and staff to find adequate resources to be sure our streets, neighborhoods and public spaces have the trees needed to make us able to say in good faith that Charlottesville is the green city we all want it to be.

In conclusion, the Commission would like to thank Doug Ehman, Chris Gensic and Tim Hughes in the Department of Parks and Recreation, who staff the commission with energy and good humor and make all of this work possible. We would also like to thank staff in Neighborhood Development Services, Public Works, the City Attorney's office and others who have helped us with various aspects of our work this past year.

Special thanks go to four of our founding members who have completed their three year terms on the Commission and have decided not to seek reappointment: Martha Derthick, Bill Emory, Robin Hanes, and Joe Kopp.

I don't think any of us knew exactly what we were getting into when you established this Commission three years ago—probably you didn't either!-- but it's been an exciting three years. As we look around us, we can see that the city is growing and changing in lots of ways and in our view, there has never been a more important time to recognize the importance of trees in achieving the vision and goals you've set for our community.

Thank you for the opportunity to work together on this and we're happy to answer any questions.