

Town of Berryville



Stormwater Management Ordinance

Amendments through July 2010

Department of Planning and Zoning
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2015 TOWN OF BERRYVILLE STORMWATER ORDINANCE

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SECTION 1. GENERAL PROVISIONS

1.1 STATUTORY AUTHORITY

The Stormwater Management Act, Section 10.1-603.2 et seq. of the Code of Virginia, enables localities to prepare and adopt a stormwater management plan and implementing ordinance.

1.2 FINDINGS OF FACT

The waters and waterways within the Berryville Area are at times subjected to flooding; that such flooding is a danger to the lives and property of the public; that such flooding is also a danger to the natural resources of the Berryville Area; that development tends to accentuate such flooding by increasing stormwater runoff due to alteration of the hydrologic response of the watershed in changing from the undeveloped to the developed condition; that such increased flooding produced by the development of real property contributes increased quantities of water-borne pollutants, and tends to increase channel erosion; that such increased flooding, increased erosion, and increased pollution can be controlled to some extent by the regulation of stormwater runoff from such development. Therefore, it is determined that it is in the public interest to establish requirements to regulate the discharge of stormwater runoff from such developments as provided in this ordinance.

1.3 PURPOSE

It is the purpose of this ordinance to establish minimum stormwater management requirements and controls:

- A. To reduce flood damage to public health, life, and property;
- B. to minimize increased stormwater runoff from new land development where such runoff will increase flood damage;
- C. to maintain the adequacy of existing and proposed culverts and bridges, dams, and other structures;
- D. to prevent, to the greatest extent feasible, an increase in non-point pollution;
- E. to maintain the integrity of stream channels for their biological functions, as well as for drainage and other purposes;
- F. to reduce the impact of development upon stream erosion; and
- G. to preserve and protect water supply facilities and water resources by means of controlling increased flood discharges, stream erosion, and non-point-source pollution.

1.4 PROGRAM ADMINISTRATION

The Town of Berryville designates the Assistant Town Manager for Community Development or his/her designee as the Program Administrator.

1.5 APPLICABILITY

- A. Except as provided for in Section 1.5-B of this ordinance, all land development projects shall comply with the requirements of this ordinance.

- B. The following activities are exempt from this ordinance:
1. 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. Tilling, planting, or harvesting of agricultural, horticultural, or forest crops utilizing all applicable BMP's.
 3. Single-family residences separately built and not part of subdivision, including additions or modifications to existing single-family detached residential structures.
 4. Land development projects that disturb less than 20,000 square feet of land area.
 5. State projects as defined in this ordinance.

1.6 COMPATIBILITY WITH OTHER PERMIT AND ORDINANCE REQUIREMENTS

Approvals issued pursuant to this ordinance do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, rule, act, or ordinance. If more stringent requirements concerning regulation of stormwater are contained in the other code, rule, act, or ordinance, the more stringent regulation shall apply.

1.7 SEVERABILITY

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this ordinance shall be judged invalid by a court of competent jurisdiction, such order or judgement shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision, or clause of this ordinance.

SECTION 2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

adequate channel - a channel that will convey the designated frequency storm event without overtopping the channel banks nor causing erosive damage to the channel bed or banks.

applicant - any person submitting a stormwater management plan for approval.

channel - a natural stream or manmade waterway.

development - a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units.

downtown commercial district – generally land along the Main Street corridor zoned C-General Commercial District and specifically as established by ordinance and incorporated into this document.

flooding - a volume of water that is too great to be confined within the banks or walls of the stream, water body, or conveyance system and that overflows onto adjacent lands, causing or threatening damage.

floodplain - those areas adjoining a river, stream, channel, ocean, bay, or lake which are likely to be covered by flooding.

infiltration facility - a stormwater management facility which temporarily impounds runoff and discharges it via infiltration through the surrounding soil. While an infiltration facility may also be equipped with an outlet structure to discharge impounded runoff, such discharge is normally reserved for overflow and other emergency conditions. Since an infiltration facility impounds runoff only temporarily, it is normally dry during non-rainfall periods.

inspection - an on-site review of the project's compliance with the approved plan, the local stormwater management program, and any applicable design criteria.

land development or land development project - a manmade change to the land surface that potentially changes runoff characteristics.

local stormwater management program or local program - a statement of the various methods employed by a locality to manage the runoff from land development projects and may include such items as local ordinances, policies, guidelines, technical materials, inspections, enforcement, and evaluation.

locality - a county, city, or town.

non-point-source pollution - pollution whose sources cannot be pinpointed but rather is washed from the land surface in a diffuse manner by stormwater runoff.

on-site stormwater management facilities - facilities which are designed to control stormwater runoff emanating from a specific site.

person - 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 other legal entity.

Plan Approving Body - refers to the administrative body responsible for review of subdivision applications in the jurisdiction in which the land development project is located.

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

pre-development - refers to the land use that exists at the time that plans for the land development are submitted to the locality. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing land use at the time the first item is submitted shall establish pre-development conditions.

regional (watershed-wide) stormwater management facility or **regional facility** - a facility or series of facilities designed to control stormwater runoff from a large contributing area, although only portions of the watershed may experience land development.

regional stormwater management plan or **regional plan** - a document containing material describing how runoff from open space, existing development, and future planned development areas within a watershed will be controlled by coordinated design and implementation of regional stormwater management facilities.

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

state project - the construction of any facility or expansion of an existing facility including, but not limited to land clearing, soil movement, or land development, which is undertaken by any state agency, board, commission, authority, or any branch of state government, including state-supported institutions of higher learning.

stormwater detention basin or **detention basin** - a stormwater management facility which temporarily impounds runoff and discharges it through a hydraulic outlet structure to a downstream conveyance system. While a certain amount of outflow may also occur via infiltration through the surrounding soil, such amounts are negligible when compared to the outlet structure discharge rates and are, therefore, not considered in the facility's design.

Since a detention facility impounds runoff only temporarily, it is normally dry during non-rainfall periods.

stormwater management facility - 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 plan or plan - a document containing material for describing how existing runoff characteristics will be maintained by a land development project and comply with the requirements of this ordinance.

stormwater retention basin or retention basin - a stormwater management facility which, similar to a detention basin, temporarily impounds runoff and discharges its outflow through a hydraulic outlet structure to a downstream conveyance system. Unlike a detention basin, however, a retention basin also includes a permanent impoundment and, therefore, is normally wet, even during non-rainfall periods. Storm runoff inflows are temporarily stored above this permanent impoundment.

subdivision - the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided.

water quality volume - the volume equal to the first 0.5-inch of runoff multiplied by the total area of the land development project. The “total area of the land development project” shall, at a minimum, equal the total impervious area contained within the project area. Total area shall also include any areas within the land development project whereby the change in land use or runoff characteristics may impact water quality.

watershed - the total drainage area contributing runoff to a single point.

SECTION 3. TECHNICAL CRITERIA

Each proposed land development project not exempted from this ordinance as provided in 1.5-B shall meet the following stormwater management criteria:

3.1 QUANTITY CONTROL

- A. A stormwater management plan for a land development project shall be developed so that the post-development peak runoff rate from a 2-year storm and a 10-year storm, considered individually, shall not exceed their respective karst loss corrected pre-development rates.
- B. These design storms shall be defined as 24-hour storms using the rainfall distribution recommended by the U.S. Soil Conservation Service and U.S. Soil Conservation Service calculation methods (TR-55 or TR-20) shall be utilized. Other calculation methods may be utilized with prior approval by the Program Administrator.
- C. For purposes of computing runoff, all lands in the site shall be assumed prior to development to be in good condition (if the lands are pastures, lawns, or parks); with good cover (if the lands are woods); or with conservation treatment (if the lands are cultivated); regardless of conditions existing at the time of computation.
- D. Upon completion of pre-development runoff rates as prescribed above, the pre-development rate shall be adjusted for karst loss in the following manner:
 - 1. Delineate the contributing drainage area or watershed to be studied.
 - 2. Define any sinkhole sub-areas in the study area where surface drainage has no means of escaping offsite, other than downward through the karst strata (i.e. cracks, sinks, etc.). These areas can be assumed to contribute no surface discharge and can be subtracted from the contributing drainage area established in Step 1.
 - 3. Determine the amount of the contributing drainage area (from Step 2) underlain by karst strata (as a percentage). This shall be assumed to be 100 percent unless the applicant's geotechnical report indicates otherwise.

4. Adjust the pre-development runoff rate for karst loss by the following method:

a. With the results of Step 3, choose appropriate multiplier from the chart below:

Percentage of Karst in <u>Study Area</u>	Storm Return Frequency		
	<u>2-Yr.</u>	<u>10-Yr.</u>	<u>100-Yr.</u>
100	.33	.43	.50
90	.35	.46	.56
80	.38	.51	.62
70	.47	.58	.68
60	.55	.66	.74
50	.64	.73	.80
40	.73	.80	.85
30	.82	.86	.89
20	.91	.92	.93
10	1.0	.98	.97
0	1.0	1.0	1.0

b. Multiply the calculated pre-development runoff rate for each storm return frequency by the appropriate factor from the chart in Item “a.” The product of the calculated rate and the karst loss multiplier is the karst loss adjusted pre-development rate.

3.2 QUALITY CONTROL (3/08)

In order to enhance water quality of stormwater runoff, all stormwater management plans must provide for the control of the water quality volume. The design of water quality control shall meet the *Performance-based* or *Technology-based* water quality criteria outlined in the Virginia Stormwater Management Handbook. The water quality volume shall be treated by one of the following methods:

- A. For a detention basin, the water quality volume, as defined in Section 2, shall be detained and released over a minimum of 30 hours.
 - 1. The detention time is a brim draw-down time and therefore, shall begin at the time of peak storage of the water quality volume in the detention basin.
 - 2. If the above requirement would result in an outlet opening smaller than three inches in diameter or the equivalent cross-sectional area, the period of detention shall be waived so that three inches will be the minimum outlet opening used.

- B. For a retention basin, the volume of the permanent pool must be at least three times greater than the water quality volume.

- C. For an infiltration facility, the water quality volume must be completely infiltrated within 48 hours.
 - 1. The invert of the infiltration facility must be at least four feet above the seasonal high groundwater elevation.

2. A detailed soils analysis and report and a geotechnical report shall be required.
 3. Approvals will be on a case-by-case basis after technical review by the Town of Berryville. The object of this review will be to avoid groundwater contamination.
 4. The invert of the infiltration facility must be at least four feet above bedrock.
- D. Project sites within the downtown commercial district may use an existing average of impervious cover ($I_{existing}$) greater than the average 16% impervious coverage for the Chesapeake Bay watershed.
1. If the existing impervious cover on the project site is equal to or less than 26%, use 26% as the existing average impervious cover ($I_{existing} = 26\%$) or
 2. If the existing impervious cover on the project site is equal to or more than 52%, use the existing average impervious cover minus 10% or use 52%, whichever value is less ($I_{existing} = existing \% - 10\%$ or $I_{existing} = 52\%$) or
 3. If the existing impervious cover on the project site is between 26% and 52%, use the existing average impervious cover minus 10%, but not less than 26% ($I_{existing} = existing \% - 10\%$ or $I_{existing} = 26\%$).
- E. Design calculations verifying compliance with the water quality requirements shall be submitted.

3.3 REGIONAL STORMWATER MANAGEMENT

If a regional stormwater management plan has been adopted by the Town of Berryville for the watershed in which the proposed land development is located, the applicant shall comply with the requirements of the regional watershed plan.

3.4 GENERAL CRITERIA

- A. Proposed residential, commercial, and/or industrial subdivisions shall apply these stormwater management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.
- B. Construction of stormwater management facilities or modifications to channels shall comply with all applicable laws and regulations. Evidence of approval of all necessary permits shall be presented.
- C. Pre-development and post-development runoff rates shall be verified by calculations that are consistent with good engineering practices and are acceptable to the Town of Berryville.

- D. The design of impounding structures that are not covered by the Virginia Dam Safety Regulations shall be checked by the applicant's engineer (certified to practice in the Commonwealth of Virginia) for structural integrity and floodplain impacts for the 100-year storm event.
- E. Outflows from stormwater management facilities shall be discharged to an adequate channel. Measures for the adequate drainage of surface waters shall be taken and facilities to accommodate that drainage shall be provided in connection with all land development activities. Specifically, the drainage system must comply with the following provisions:
1. Adequate drainage of surface waters means the effective conveyance of storm and other surface waters through and from the development site and the discharge of such waters into a natural watercourse, i.e., a stream with incised channel (bed and banks), or a concave swale, or drainage facility of sufficient capacity without adverse impact upon the land over which the waters are conveyed or upon the watercourse or facility into which such waters are discharged. Complete calculations and a narrative shall be included on the plan.
 2. The provision of the necessary easements to accomplish that which is required above shall be required. These are to include sufficient easement extensions to property lines to permit future development reasonable access to drainage ways or drainage facilities for connections.
 3. The drainage system must have the hydraulic characteristics to accommodate the maximum expected flow of surface waters for a given watershed, or portion thereof, for the duration and intensity of rainfall, as specified in Section 3 et seq.
 4. Determination of the size and capacity of the drainage system shall be based on the planned development, existing zoning, or existing development, whichever is greater, within the watershed.
 5. The on-site drainage system shall be adequate and shall:
 - a. honor natural drainage divides;
 - b. account for both off-site and on-site surface waters;
 - c. convey such waters to a natural watercourse at the natural elevation, or an existing storm drainage facility; and
 - d. discharge the surface waters into an existing facility of adequate capacity.
 6. The drainage system shall be adequate and properties over which the surface waters are conveyed, from the development site to discharge point(s), not adversely affected.
 7. Concentrated surface waters shall not be discharged on adjoining property, unless an easement expressly authorizing such discharge has been granted by the owner of the affected land or unless the discharge is into a natural watercourse or other appropriate discharge point as set forth above.
- F. Velocity dissipators shall be placed at the outfall of all detention and retention basins and along the length of any outfall channel as necessary to provide a non-

erosive velocity of flow from the basin into an adequate channel. The velocity of flow shall not exceed the limits of grass-lined ditches. Grass-lined ditches shall be enhanced with erosion control blankets or soil stabilization mats as necessary and as specified in the current Virginia Department of Transportation standards. Riprap shall only be utilized upon prior approval by the Plan Approving Body.

- G. Land development projects must comply with the Virginia Erosion and Sediment Control Act and attendant regulations.
- H. Safety measures should be incorporated into the design of all stormwater management facilities as directed by the Plan Approving Body or the Program Administrator. These may include, but are not limited to, safety ledges, fencing, warning signs, anti-vortex devices, stadia rod indicating depth at the lowest point, and outlet structures designed to limit public access.
- I. If stormwater management facilities are provided through which water passes at times other than following rainfall, the Town of Berryville's engineer should be consulted concerning design criteria. It is necessary for detention requirements to be met, despite the necessity of passing certain low flows. This applies to all on-stream or on-line stormwater management facilities.
- J. Outlets from stormwater management facilities shall be designed to function without manual, electrical, or mechanical controls, unless authorized in advance in writing by the Program Administrator.
- K. Detention facilities shall be designed to minimize propagation of insects, particularly mosquitoes.

3.5 STORMWATER MANAGEMENT FACILITIES IN FLOODPLAINS

- A. New construction, including construction of on-site stormwater management facilities, should be avoided in floodplains. When this is unavoidable, a special examination to determine adequacy of proposed stormwater management facilities during the 10-year flood shall be required.

Note: The purpose of this analysis is to ensure that the stormwater management facility will operate effectively and to evaluate the effect the stormwater management facility may have on the available floodplain storage. One acceptable method is to apply the 10-year design storm to both the site and to the entire watershed contributing to the floodplain, assuming that the two peak simultaneously at the point in question. The time of concentration assumed for the entire watershed should be that appropriate to the larger area, rather than the shorter period applicable to the site.

- B. In addition, such construction shall be in compliance with all applicable regulations under the National Flood Insurance Program.

3.6 NONSTRUCTURAL MEASURES

It is not necessary that basic requirements for water quality and quantity control be satisfied solely by means of structural methods. Non-structural practices including, but not limited to, cluster land use development, minimization of impervious surfaces, open space acquisition, floodplain management, and protection of wetlands, steep slopes and vegetation should be coordinated with structural requirements.

3.7 REVIEW OF TECHNOLOGIES AND SYSTEMS NOT INCLUDED IN THE VIRGINIA STORMWATER MANAGEMENT HANDBOOK

The Assistant Town Manager for Community Development may, after consultation with the Town's consulting engineer, approve for use technologies and systems not included in the Virginia Stormwater Management Handbook. Approvals shall be issued in writing and shall establish design criteria and include any conditions for use. Denials shall be issued in writing and shall provide the reason(s) for denial. Any party aggrieved by a decision of the Assistant Town Manager for Community Development regarding review of a system may appeal that decision to the Berryville Town Council. All costs incurred by the Town for engineering review or proposals shall be reimbursed by the applicant.

SECTION 4. STORMWATER MANAGEMENT PLAN REQUIREMENTS

4.1 GENERAL REQUIREMENTS

- A. Except as provided for in Section 1.5-B of this ordinance, no grading, building, or other permit shall be issued for land development unless a stormwater management plan has been submitted to and approved by the Town of Berryville.
- B. The applicant shall demonstrate that the project meets the criteria set forth in this ordinance.
- C. Failure of the applicant to demonstrate that the project meets the criteria set forth in this ordinance shall be reason to deny the applicant's underlying application for approval.
- D. Planning, design, and approach to stormwater management shall incorporate the Berryville Area Stormwater Master Plan's (dated 9/9/91, as amended) findings and conclusions. Where requirements of this ordinance are in conflict with those of the Stormwater Master Plan, provisions of this ordinance shall apply.

4.2 PLAN SUBMISSION

- A. The applicant shall submit, to the Plan Approving Body, the material required in a stormwater management plan in accordance with Section 4.3 of this ordinance.
- B. Ten copies of the stormwater management plan shall be submitted.
- C. The stormwater management plan shall be accompanied by the fee specified in Section 5 of this ordinance.

4.3 STORMWATER MANAGEMENT PLAN

The following information, where applicable, shall be required for each proposed project subject to review under this ordinance. Maps, plans, designs, and calculations shall be certified by a professional engineer or Class III-B surveyor registered to practice in the Commonwealth of Virginia.

- A. General
 - 1. General description of the project.
 - 2. General description of the erosion and sediment controls.
 - 3. General description of temporary and permanent stormwater management facilities.
 - 4. Project schedule and narrative, including a sequence of construction.
- B. Maps of the project area showing:
 - 1. The boundary of the drainage area tributary to the project site (e.g., U.S.G.S. quadrangle map).
 - 2. The location of the project relative to significant features in the general surroundings such as roads, pedestrian ways, access to the site, adjacent

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- land uses, property lines, existing man-made structures, public facilities, landmarks, and places of architectural and historical significance.
3. Existing contours at 2-foot intervals, extending a minimum of 200 feet beyond the limits of the proposed development.
 4. Streams, lakes, ponds, existing drainage swales, wetlands, forested areas, and other physical features within or adjacent to the project area.
 5. Unique, unusual, or environmentally sensitive features that provide particular opportunities or constraints for development.
 6. Locations of existing and proposed utilities, sewers, and water lines.
 7. Soil types and boundaries, and locations of areas with steeply sloped or highly erodible soils.
 8. Alterations in the natural terrain, cover, and grade including lawns and other landscaping.
 9. Areas to be cut or filled.
 10. The location of proposed buildings, roads, parking areas, and other permanent structures.
 11. Final contours at 2-foot intervals, extending a minimum of 200 feet beyond the limits of the proposed development.

C. Stormwater Management Facilities

1. All stormwater management facilities shown on a map, including details, plan, profile, and cross-sections.
2. If infiltration facilities are proposed, the locations of existing and proposed wells and septic system drain fields.
3. Comprehensive hydrologic and hydraulic design calculations, including all assumptions and criteria, for the pre-development and post-development conditions for the design storms specified in Section 3 of this ordinance.
4. A soils report/geotechnical analysis and boring logs.
5. A maintenance plan indicating the person permanently responsible for maintenance of the stormwater management facilities and a maintenance program for the proposed stormwater management facilities.

4.4 PLAN APPROVAL

- A. A maximum of 30 calendar days from the receipt of an application will be allowed for preliminary review of the application for completeness. During this period, the application will be accepted for review, which will begin the 60-day review period, or rejected for incompleteness. The applicant will be informed in writing of the information necessary to complete the application.
- B. The 60-day review period begins on the day the complete stormwater management plan is accepted for review. At this time, an acknowledgement letter will be sent to the applicant. During the 60-day review period, the Plan Approving Body shall either approve or disapprove the plan and communicate its decision to the applicant in writing. Approval or denial shall be based on the plan's compliance with this ordinance.

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- C. A disapproval of a plan shall contain the reasons for disapproval.
- D. The applicant or any aggrieved party authorized by law may appeal the Plan Approving Body's decision of approval or disapproval of a stormwater management plan application within 30 days after the rendering of such a decision, to the Clarke County Circuit Court.
- E. Judicial review shall be on the record previously established and shall otherwise be in accordance with the provisions of the Administrative Process Act (see 9-6.14:1 et seq. of the Code of Virginia).

4.5 CONDITIONS OF APPROVAL

- A. Each approved stormwater management plan shall be subject to the following conditions:
 - 1. The applicant shall comply with all applicable requirements of the approved plan and the local program and shall certify that all land clearing, construction, land development, and drainage will be done according to the approved plan.
 - 2. The land development project shall be conducted only within the area specified by the approved plan.
 - 3. The Town of Berryville shall be allowed, after giving notice to the owner, occupier, or operator of the land development project, to conduct periodic inspections of the project. The owner, occupier, or operator shall be given the opportunity to accompany the inspector.
 - 4. No transfer, assignment or sale of the rights granted by virtue of an approved plan shall be made unless a written notice of transfer is filed with the Town of Berryville and the transferee certifies agreement to comply with all obligations and conditions of the approved plan.
 - 5. A set of certified as-built plans shall be submitted to the Town of Berryville upon completion of the project. Said as-builts shall include volume confirmation with supporting computations.
 - 6. While the project is under bond, the person responsible for implementing the approved plan shall conduct monitoring and submit reports to ensure compliance with the approved plan and to determine whether the plan provides effective stormwater management.

4.6 PERFORMANCE BOND

- A. All applicants shall submit to the Town of Berryville a performance bond with surety, cash escrow, letter of credit, or such other legal arrangement acceptable to the Town's attorney, to ensure that measures could be taken by the Town at the applicant's expense should the applicant fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of the applicant by the approved stormwater management plan.

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- B. If the Town of Berryville takes such action upon such failure by the applicant, the Town may collect from the applicant the costs of such action in excess of the amount of the security held.
- C. Within sixty days of the completion of the requirements of the approved stormwater management plan, including necessary stabilization, the bond, cash escrow, letter of credit, or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated.
- D. These requirements are in addition to all other provisions of law relating to the issuance of such plans and are not intended to otherwise affect the requirements for such plans.

4.7 CHANGES TO AN APPROVED PLAN

No changes may be made to an approved plan without review and written approval by the Town of Berryville.

4.8 EXCEPTIONS

- A. A request for an exception shall be submitted, in writing, to the Plan Approving Body. An exception from this ordinance may be granted, provided that:
 - 1. exceptions to the criteria are the minimum necessary to afford relief, and
 - 2. reasonable and appropriate conditions shall be imposed as necessary upon any exception granted so that the purpose and intent of this ordinance is preserved.
- B. Economic hardship is not sufficient reason to grant an exception from the requirements of this ordinance.

SECTION 5. FEES

The following plan review and inspection fees shall be paid to the Town of Berryville at the time of application:

Base Fee	\$150
Per Acre Fee (\$850 maximum)	\$ 25

Consulting services will be charged to the applicant at cost.

SECTION 6. CONSTRUCTION INSPECTIONS

- A. The Program Administrator or designee shall make regular inspections during all phases of construction of the stormwater management facilities.
- B. The applicant shall notify the Town of Berryville 48 hours prior to the commencement of any activity covered by this ordinance so that appropriate inspections can be made to ensure compliance with this ordinance.
- C. Inspection reports shall be maintained as part of the land development project file.

SECTION 7. MAINTENANCE

- A. Responsibility for the operation and maintenance of stormwater management facilities, unless assumed by the Town or other governmental agency, shall remain with the property owner and shall pass to any successor or owner. If portions of the land are to be sold, legally binding arrangements shall be made to pass the basic responsibility to successors in title. These arrangements shall designate for each parcel the property owner, governmental agency, or other legally established entity to be permanently responsible for maintenance.
- B. In the case of developments where lots are to be sold, permanent arrangements satisfactory to the Town's attorney shall be made to ensure continued performance of these obligations.
- C. In the event that the stormwater management facilities are in need of maintenance or become a danger to public safety or public health, the responsible person shall be notified in writing, advised of the corrective measures required, and given a reasonable period of time to take necessary action. If the responsible person fails or refuses to perform such maintenance and repair, the Town has the authority to perform the work and to recover the costs from the responsible person.
- D. To ensure proper performance of the stormwater management facility, the owner is responsible for inspecting the stormwater management facility on a semi-annual basis and after any storm which causes the capacity of the facility to be exceeded. More frequent inspections may be required if deemed necessary by the Program Administrator. The owner must file written record of inspections to the Program Administrator within five working days of the inspection.
- E. Right of entry agreements or easements shall be required from the applicant for purposes of inspection by the Program Administrator or designee. Said agreements or easements may also permit the Town of Berryville or designee to enter the property for the purpose of maintenance and repair, should the responsible party not fulfill these duties.

SECTION 8. ENFORCEMENT

- A. If it is determined that there is a failure to comply with the approved plan, notice shall be served upon the applicant or person responsible for implementing the plan by registered or certified mail to the address specified in the application or plan certification or by delivery at the land development site to the agent or employee supervising such activities.
- B. The notice shall specify the measures needed to comply with the plan and shall specify the time within which such measures shall be completed.
- C. Upon failure to comply within the time specified the permit or approval may be revoked and the applicant or person responsible for implementing the plan shall be deemed to be in violation of this ordinance.
- D. Any person who violates any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine or imprisonment, or both, for each violation, as provided in Section 10.1-603.14 of the Code of Virginia.
- E. The Program Administrator may apply to the circuit court to enjoin a violation or a threatened violation of this ordinance as provided for in Section 10.1-603.14 of the Code of Virginia without the necessity of showing that an adequate remedy at law does not exist.
- F. Without limiting the remedies which may be obtained in this section, the Program Administrator may bring a civil action against any person for violation of this ordinance, or any condition of the permit or approval, or any provision of the local program. The action may seek to impose a civil penalty of not more than \$2,000 for each violation as provided for in Section 10.1-604.14 of the Code of Virginia.
- G. With the consent of any person who has violated or failed, neglected or refused to obey this ordinance or any condition of the permit or approval of any provision of the local program, the Program Administrator may issue an order against or to such person, for the payment of civil charges for violations in specific sums, not to exceed the limit specified in Subsection "F" of this section as provided for in Section 10.1-604.14 of the Code of Virginia. Such civil charges shall be instead of any appropriate civil penalty which could be imposed under Subsection "F."

SECTION 9. EFFECTIVE DATE

This ordinance shall become effective on October 14, 1997. Development and site plans approved before the effective date are not subject to this ordinance unless amendments affecting stormwater runoff are made in said plan. Any development plan, site plan, or subdivision application that has not been approved by the effective date shall conform to the provisions of this ordinance.

Adopted October 14, 1998

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