

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 605

An Act to amend and reenact §§ 10.1-603.2 and 10.1-603.8 of the Code of Virginia, relating to stormwater control plans for linear developments.

[S 196]

Approved April 10, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 10.1-603.2 and 10.1-603.8 of the Code of Virginia are amended and reenacted as follows:

§ 10.1-603.2. Definitions.

As used in this article, unless the context requires a different meaning:

"Applicant" means any person submitting a stormwater management plan for approval.

"Board" means the Board of Conservation and Recreation.

"Department" means the Department of Conservation and Recreation.

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

"Land development" or "land development project" means a manmade change to the land surface that potentially changes its runoff characteristics.

"Linear development project" means a land development project that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracts, rights-of-way, bridges, communication facilities and other related structures of a railroad company; and (iii) highway construction projects.

"Local stormwater management program" or "local program" means 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 and guidelines, technical materials, inspection, enforcement, and evaluation.

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

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

"Stormwater management plan" or "plan" means a document containing material for describing how existing runoff characteristics will be maintained by a land development project.

"Subdivision" means the same as defined in § 15.1-465.

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

§ 10.1-603.8. Regulated activities; submission and approval of a control plan; security for performance; exemptions.

A. Except as provided in § 10.1-603.5, after the adoption of a local ordinance, a person shall not develop any land for residential, commercial, industrial, or institutional use in that locality until he has submitted a stormwater management plan to the locality that has jurisdiction and has obtained approval of the plan from that locality. The plan may include appropriate maps, mathematical calculations, detail drawings and a listing of all major decisions to assure that the entire unit or units of land will be so treated to achieve the objectives of the local program. Prior to issuance of any permit, the locality may also require an applicant to submit a reasonable performance bond with surety, cash escrow, letter of credit, any combination thereof, or such other legal arrangement acceptable to the locality, to ensure that measures could be taken by the locality at the applicant's expense should he fail, after proper notice, within the time specified to initiate or maintain appropriate actions which may be required of him by the approved stormwater management plan as a result of his land-development project. If the locality takes such action upon such failure by the applicant, the agency may collect from the applicant for the difference should the amount of the reasonable cost of such action exceed the amount of the security held. Within sixty days of the completion of the requirements of the approved stormwater management plan, such bond, cash escrow, letter of credit or other legal arrangement, or the unexpended or unobligated portion thereof, shall be refunded to the applicant or terminated. 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.

B. Notwithstanding any other provisions of this article, the following activities are exempt:

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;

3. Single-family residences separately built and not part of a subdivision, including additions or modifications to existing single-family detached residential structures; ~~and~~

4. Land development projects that disturb less than one acre of land area; however, the governing body of a locality which has adopted a stormwater management program may reduce this exception to a smaller area of disturbed land or qualify the conditions under which this exception shall apply; *and*

5. *Linear development projects, provided that (i) less than one acre of land will be disturbed per outfall or watershed, (ii) there will be insignificant increases in peak flow rates, and (iii) there are no existing or anticipated flooding or erosion problems downstream of the discharge point.*